



# भारत का राजपत्र

## The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

साप्ताहिक

WEEKLY

सं. 7] नई दिल्ली, फरवरी 7—फरवरी 13, 2016, शनिवार/माघ 18—माघ 24, 1937

No. 7] NEW DELHI, FEBRUARY 7—FEBRUARY 13, 2016, SATURDAY/MAGHA 18—MAGHA 24, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके।  
 Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड ( ii )  
 PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India  
 (Other than the Ministry of Defence)

## वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 22 जनवरी, 2016

का.आ. 231.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, सेन्ट्रल बैंक ऑफ इंडिया के महाप्रबंधक श्री राजकिरन राय जी. (जन्म तिथि : 19.05.1962) को उनके पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, ओरियंटल बैंक ऑफ कामर्स में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

## MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 22nd January, 2016

S.O. 231.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub-clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri Rajkiran Rai G (DOB: 19.05.1962), General Manager, Central Bank of India as Executive Director, Oriental Bank of Commerce for the period of three years from the date of his taking over the charge of the post or until further orders, whichever is earlier.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 232.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, सेंट्रल बैंक ऑफ इंडिया के महाप्रबंधक श्री रमेश एस. सिंह (जन्म तिथि : 09.10.1961) को उनके पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, देना बैंक में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 232.**—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri Ramesh S. Singh (DOB:09.10.1961), General Manager, Central Bank of India as Executive Director, Dena Bank for a period of three years from the date of his taking over the charge of the post or until further orders, whichever is earlier.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 233.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, इलाहाबाद बैंक के महाप्रबंधक श्री सुनील मेहता (जन्म तिथि : 19.09.1959) को उनके पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, कार्पोरेशन बैंक में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 233.**—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks

(Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri Sunil Mehta (DOB:19.09.1959), General Manager, Allahabad Bank as Executive Director, Corporation Bank for a period of three years from the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 234.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, पंजाब नैशनल बैंक के महाप्रबंधक श्री विनोद कुमार कथुरिया (जन्म तिथि : 23.07.1958) को उनके पदभार ग्रहण करने की तारीख से 31.07.2018 तक अर्थात् अधिवर्षिता की आयु प्राप्त करने की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, यूनियन बैंक ऑफ इंडिया में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 234.**—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri Vinod Kumar Kathuria (DOB: 23.07.1958), General Manager, Punjab National Bank as Executive Director, Union Bank of India from the date of his taking over the charge of the post and upto 31.07.2018 i.e. the date of his attaining the age of superannuation or until further orders, whichever is earlier.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 235.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, विजया बैंक के महाप्रबंधक श्री ए.एस. राजीव (जन्म तिथि : 15.05.1964) को उनके पदभार ग्रहण करने की

तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इंडियन बैंक में कार्यपालक निदेशक नियुक्त करती है।

[ फा. सं. 4/5/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 235.**—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri A.S. Rajeev (DOB:15.05.1964), General Manager, Vijaya Bank as Executive Director, Indian Bank for the period of three years from the date of his taking over the charge of the post or until further orders, whichever is earlier.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 236.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, पंजाब नैशनल बैंक के महाप्रबंधक श्री आर. सुब्रमणि कुमार (जन्म तिथि : 15.06.1959) को उनके पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इंडियन बैंक में कार्यपालक निदेशक नियुक्त करती है।

[ फा. सं. 4/5/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 236.**—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri R. Subramania Kumar (DOB: 15.06.1959), General Manager, Punjab National Bank as Executive Director, Indian Bank for a period of three years, from the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 237.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, बैंक ऑफ इंडिया के महाप्रबंधक श्री दीन बंधु महापात्र (जन्म तिथि : 12.06.1959) को उनके पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, केनरा बैंक में कार्यपालक निदेशक नियुक्त करती है।

[ फा. सं. 4/5/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 237.**—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri Dina Bandhu Mohapatra (DOB: 12.06.1959), General Manager, Bank of India as Executive Director, Canara Bank for a period of three years from the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 238.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, केनरा बैंक के महाप्रबंधक श्री जी. सुब्रमणि अच्यर (जन्म तिथि : 10.04.1958) को इस शर्त के अधीन कि श्री अच्यर दिनांक 01.02.2016 को या इसके पश्चात् अपना कार्यभार संभालेंगे, उनके पदभार ग्रहण करने की तारीख से 30.04.2018 तक अर्थात् उनकी अधिवर्षिता की आयु तक अथवा अगले आदेशों तक, जो भी पहले हो, यूको बैंक में कार्यपालक निदेशक नियुक्त करती है।

[ फा. सं. 4/5/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 238.**—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking

Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri G Subramania Iyer (DOB:10.04.1958), General Manager, Canara Bank as Executive Director, UCO Bank from the date of his taking over the charge of the post and upto 30.04.2018 i.e. the date of his superannuation or until further orders, whichever is earlier subject to restriction that Shri Iyer will take over the charge of the post on or after 01.02.2016.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 239.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, यूनियन बैंक ऑफ इंडिया के महाप्रबंधक श्री मयंक के. महेता (जन्म तिथि : 12.09.1958) को उनके पदभार ग्रहण करने की तारीख से 30.09.2018 तक अर्थात् अधिवर्षिता की आयु प्राप्त करने की तारीख तक अथवा अगले आदेशों तक, जो भी पहले हो, बैंक ऑफ बड़ौदा में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 239.**—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri Mayank K. Mehta (DOB:12.09.1958) , General Manager, Union Bank of India as Executive Director, Bank of Baroda from the date of his taking over the charge of the post and upto 30.09.2018 i.e. the date of his attaining the age of superannuation or until further orders, whichever is earlier.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 240.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3)

के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, विजया बैंक के महाप्रबंधक श्री नागेश्वर राव वार्ड (जन्म तिथि : 12.07.1961) को उनके पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, विजया बैंक में कार्यपालक निदेशक नियुक्त करती है।

[फा. सं. 4/5/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 240.**—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub clause (1) of clause 3 and sub clause (1) of clause 8 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, hereby appoints Shri Nageswara Rao Y (DOB: 12.07.1961), General Manager, Vijaya Bank as Executive Director, Vijaya Bank for the period of three years from the date of his taking over the charge of the post or until further orders, whichever is earlier.

[F. No. 4/5/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 241.**—भारतीय लघु उद्योग विकास बैंक अधिनियम, 1989 (1989 का 39) की धारा (6) की उप-धारा (2) के साथ पठित धारा (6) की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, सिडबी के महाप्रबंधक श्री मनोज मित्तल (जन्म तिथि : 28.10.1967) को पदभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय लघु उद्योग विकास बैंक (सिडबी) में उप प्रबंध निदेशक नियुक्त करती है।

[फा. सं. 7/1/2011-बीओ-I (खंड-II)]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 241.**—In exercise of the powers conferred by clause (b) of sub-section (1) of Section (6) read with sub-section (2) of Section 6 of the Small Industries Development Bank of India Act, 1989 (39 of 1989), the Central Government hereby appoints Shri Manoj Mittal, (DOB: 28.10.1967), General Manager, SIDBI as Deputy Managing Director, SIDBI for a period of five years from the date of his taking over the charge of the post or until further orders, whichever is earlier.

[F. No. 7/1/2011-BO-I (Vol.-II)]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 22 जनवरी, 2016

**का.आ. 242.**—भारतीय लघु उद्योग विकास बैंक अधिनियम, 1989 (1989 का 39) की धारा (6) की उप-धारा (2) के साथ पठित धारा (6) की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, सिडबी के मुख्य महाप्रबंधक श्री अजय कुमार कपूर (जन्म तिथि : 25.10.1959) को पदभार ग्रहण करने की तारीख से 31.10.2019 तक अर्थात् अधिवर्षिता की आयु प्राप्त करने तक अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय लघु उद्योग विकास बैंक (सिडबी) में उप प्रबंध निदेशक नियुक्त करती है।

[ फा. सं. 7/1/2011-बीओ-I (खंड-II) ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 22nd January, 2016

**S.O. 242.**—In exercise of the powers conferred by clause (b) of sub-section (1) of Section (6) read with sub-section (2) of Section 6 of the Small Industries Development Bank of India Act, 1989 (39 of 1989), the Central Government hereby appoints Shri Ajay Kumar Kapur, (DOB: 25.10.1959), Chief General Manager, SIDBI as Deputy Managing Director, SIDBI w.e.f. the date of his taking over the charge of the post, and upto the date of his superannuation i.e. 31.10.2019 or until further orders, whichever is earlier.

[ F. No. 7/1/2011-BO-I (Vol.-II) ]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 243.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3)(ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, प्रो. राधा आर. शर्मा (जन्म तिथि : 20.09.1955) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, इलाहाबाद बैंक के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[ फा. सं. 6/6/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 243.**—In exercise of the powers conferred by sub-section 3 (h) and (3-A) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Prof. Radha R. Sharma (DoB: 20.09.1955) as Part-time Non-official Director on the Board of Directors

of Allahabad Bank for a period of three years, from the date of notification of her appointment or until further orders, whichever is earlier.

[ F. No. 6/6/2015-BO-I ]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 244.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3)(ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, डॉ. अर्चना रविन्द्रराय ढोलकिया (जन्म तिथि : 04.12.1955) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, बैंक ऑफ महाराष्ट्र के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[ फा. सं. 6/11/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 244.**—In exercise of the powers conferred by sub-section 3 (h) and (3-A) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Dr. Archana Ravindrarai Dholakia (DoB: 04.12.1955) as Part-time Non-official Director on the Board of Directors of Bank of Maharashtra for a period of three years, from the date of notification of her appointment or until further orders, whichever is earlier.

[ F. No. 6/11/2015-BO-I ]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 245.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3)(ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री जी. गोपालकृष्ण (जन्म तिथि : 11.03.1956) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, देना बैंक के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[ फा. सं. 6/18/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 245.**—In exercise of the powers conferred by sub-section 3 (h) and (3-A) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri G. Gopalakrishna (DoB: 11.03.1956) as Part-time Non-official Director on the Board of Directors of Dena Bank for a period of three years, from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 6/18/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 246.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3)(ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री अमित चटर्जी (जन्म तिथि : 25.10.1954) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, देना बैंक के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[फा. सं. 6/19/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 246.**—In exercise of the powers conferred by sub-section 3 (h) and (3-A) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri Amit Chatterjee (DoB: 25.10.1954) as Part-time Non-official Director on the Board of Directors of Dena Bank for a period of three years, from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 6/19/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 247.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3)(ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री एम. भगवंत राव (जन्म तिथि : 25.05.1954) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, विजया बैंक के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[फा. सं. 6/24/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 247.**—In exercise of the powers conferred by sub-section 3 (h) and (3-A) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri Atanu Sen (DoB: 16.07.1954) as Part-time Non-official Director on the Board of Directors of Punjab & Sind Bank for a period of three years, from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 6/24/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 248.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3)(ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री एम. भगवंत राव (जन्म तिथि : 25.05.1954) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, विजया बैंक के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[फा. सं. 6/33/2015-बीओ-I]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 248.**—In exercise of the powers conferred by sub-section 3 (h) and (3-A) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri M. Bhagavantha Rao (DoB: 25.05.1954) as Part-time Non-official Director on the Board of Directors of Vijaya Bank for a period of three years, from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 6/33/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 249.**—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3)(ज) और (3-क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री वी.वी.आर. शास्त्री (जन्म तिथि : 23.04.1949) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, विजया बैंक के निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[ फा. सं. 6/34/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 249.**—In exercise of the powers conferred by sub-section 3 (h) and (3-A) of Section 9 of The Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 of The Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government hereby nominates Shri V.V.R. Sastry (DoB: 23.04.1949) as Part-time Non-official Director on the Board of Directors of Vijaya Bank for a period of three years, from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 6/34/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 250.**—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करके, एतद्वारा, श्री गिरीश कुमार अहुजा (जन्म तिथि : 29.05.1946) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय स्टेट बैंक के केन्द्रीय निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[ फा. सं. 6/34/2014-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 250.**—In exercise of the powers conferred by clause (d) of Section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominate Shri Girish Kumar Ahuja (DoB : 29.05.1946) as Part Time Non Official Director on the Central Board of Directors of State Bank of India, for a period of three years, with effect from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 6/34/2014-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 251.**—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करके, एतद्वारा, डॉ. पुष्पेन्द्र राय (जन्म तिथि : 02.06.1953) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, भारतीय स्टेट बैंक के केन्द्रीय निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[ फा. सं. 6/36/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 251.**—In exercise of the powers conferred by clause (d) of Section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominate Dr. Pushpendra Rai (DoB : 02.06.1953) as Part Time Non Official Director on the Central Board of Directors of State Bank of India, for a period of three years, with effect from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 6/36/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 28 जनवरी, 2016

**का.आ. 252.**—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 61) की धारा 7 की उप-धारा (2) के साथ पठित धारा (6) की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करके, एतद्वारा, डॉ. सत्यनारायण दास (जन्म तिथि : 14.03.1950) को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा अगले आदेशों तक, जो भी पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबांद) के केन्द्रीय निदेशक मंडल में अंशकालिक गैर-सरकारी निदेशक नामित करती है।

[ फा. सं. 7/8/2015-बीओ-I ]

विजय मल्होत्रा, अवर सचिव

New Delhi, the 28th January, 2016

**S.O. 252.**—In exercise of the powers conferred by clause (b) of sub-section (1) of Section 6 read with sub-section (2) of Section 7 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, in consultation with the Reserve Bank of India, hereby nominates Dr. Satyanarayana Dash (DoB : 14.03.1950) as Part Time Non Official Director on the Board of Directors of National Bank for Agriculture and Rural Development (NABARD), for a period of three years from the date of notification of his appointment or until further orders, whichever is earlier.

[F. No. 7/8/2015-BO-I]

VIJAY MALHOTRA, Under Secy.

नई दिल्ली, 9 फरवरी, 2016

**का.आ. 253.**—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 6 की उप-धारा (1) के खंड (ड) के उप-खंड (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री अमर सिन्हा (आईएफएस : 1982), सचिव (ईआर), विदेश मंत्रालय को अगले आदेशों तक श्रीमती सुजाता मेहता के स्थान पर भारतीय निर्यात-आयात बैंक (एकिजम बैंक) के निदेशक मंडल में निदेशक नामित करती है।

[फा. सं. 24/27/2002-आईएफ-1]

सौम्याजीत घोष, अवर सचिव

New Delhi, the 9th February, 2016

**S.O. 253.**—In exercise of the powers conferred by sub-clause (i) of Clause (e) of sub-section (1) of Section 6 of the Export Import Bank of India Act, 1981 (28 of 1981), the Central Government hereby nominates Sh. Amar Sinha (IFS : 1982), Secretary (ER), Ministry of External Affairs, as Director on the Board of Directors of Export Import Bank of India (EXIM Bank) vice Smt. Sujata Mehta until further orders.

[F. No. 24/27/2002-IF-I]

SOUMYAJIT GHOSH, Under Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 254.**—राजनयिक और कॉसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के प्रधान कॉसलावास, न्यूयॉर्क में श्री हिमांशु पंत, आशुलेखक को दिनांक 3 फरवरी, 2016 से सहायक कॉसुलर अधिकारी के तौर पर कॉसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2016]

प्रकाश चन्द, उप सचिव (कॉसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 3rd February, 2016

**S.O. 254.**—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Himanshu Pant, Steno as Assistant Consular Officer in Consulate General of India, New York to perform the Consular services with effect from 3 February, 2016.

[No. T-4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 1 फरवरी, 2016

**का.आ. 255.**—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:—

अनुसूची

| क्र. सं. | लाइसेंस सं. | स्वीकृत करने की तिथि वर्ष/माह | लाइसेंस धारी का नाम व पता  | भारतीय मानक का शीर्ष | भा.मा. सं. (भाग/अनुभाग): वर्ष |
|----------|-------------|-------------------------------|--|----------------------|-------------------------------|
| 1        | 2           | 3                             | 4  | 5                    | 6                             |
| 1.       | 6500011492  | 20160105                      | मैसर्स वी-गार्ड इंडस्ट्रीज लिमिटेड<br>इलक्ट्रो मेकैनिकल वर्क्स<br>2/113ई, कारयम पालयम रोड,<br>मैलमपट्टी पोस्ट<br>कोयम्बत्तूर-641 062 | निम्नजनीय पम्पसेट    | IS 8034: 2002                 |

| 1  | 2          | 3        | 4   | 5   | 6             |
|----|------------|----------|---|---|---------------|
| 2. | 6500011694 | 20160113 | मैसर्स वाहिनी इंजीनियरिंग<br>सं. 36, रेणुका गार्डन,<br>करुप्परायम पालयम,<br>मैलमपट्टी पोस्ट,<br>कोयम्बतूर-641 062 | साफ, ठंडे पानी के लिए<br>अपकेंद्रीय पुनरुत्पादक पम्प                        | IS 8472: 1998 |
| 3. | 6500011896 | 20160125 | मैसर्स हिंदुस्तान इंजीनियरिंग इंडस्ट्रीज<br>359, नन्जुन्दापुरम रोड,<br>रामानाथापुरम,<br>कोयम्बतूर-641 036         | निम्मजनीय पम्पसेट के<br>लिए मोटर  | IS 9283: 2013 |
| 4. | 6500011593 | 20160111 | मैसर्स चिन्नान्न ज्वेलरी<br>17, बाजार स्ट्रीट,<br>पोल्लाचौ-642 001  | स्वर्ण एवं स्वर्ण मिश्रधातुएं,<br>आभूषण/शिल्पकारी –<br>शुद्धता एवं मुहरांकन | IS 1417: 1999 |
| 5. | 6500011795 | 20160114 | मैसर्स जाफर ज्वेलरी<br>54, राजा स्ट्रीट, अन्तियूर,<br>भवानी-638 501   | स्वर्ण एवं स्वर्ण मिश्रधातुएं,<br>आभूषण/शिल्पकारी –<br>शुद्धता एवं मुहरांकन | IS 1417: 1999 |
| 6. | 6500011997 | 20160129 | मैसर्स श्री कुमार ज्वेलर्स<br>490-2, कोवै मुख्य सड़क,<br>नम्बियूर,<br>गोबूचेट्टीपालयम (तालुक),<br>इरोड-638 458    | स्वर्ण एवं स्वर्ण मिश्रधातुएं,<br>आभूषण/शिल्पकारी –<br>शुद्धता एवं मुहरांकन | IS 1417: 1999 |

[सं. सीएमडी/13:11]

पी. सेषागिरी राव, वैज्ञानिक 'ई' एवं प्रमुख

## MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 1st February, 2016

**S.O. 255.**—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule:

## SCHEDULE

| Sl.<br>No. | Licence<br>No. | Grant<br>Date | Name and Address (Factory)<br>of the Party   | Title of the Standard | IS No. Part/<br>Sec. Year |
|------------|----------------|---------------|--|-----------------------|---------------------------|
| 1          | 2              | 3             | 4  | 5                     | 6                         |
| 1.         | 6500011492     | 20160105      | M/s. V-Guard Industries Ltd.<br>Electro Mechanical Works<br>2/113E, Karayam Palayam Road,<br>Mylampatti Post,<br>Coimbatore - 641062 | Submersible Pumpsets  | IS 8034: 2002             |

| 1  | 2          | 3        | 4   | 5   | 6              |
|----|------------|----------|---|---|----------------|
| 2. | 6500011694 | 20160113 | M/s. Vahinie Engineering, No. 36, Renuka Garden, Karuparayan Palayam, Mylampatti Post, Coimbatore - 641062. | Centrifugal Regenerative Pumps for clear, cold water              | IS 8472 : 1998 |
| 3. | 6500011896 | 20160125 | The Hindusthan Engineering Industries, 359, Nanjundapuram Road, Ramanathapuram, Coimbatore-641036           | Motors for Submersible Pumpsets                                   | IS 9283 : 2013 |
| 4. | 6500011593 | 20160111 | M/s. Chinnannaan Jewellery 157, Bazaar Street, Pollachi – 642 001   | Gold and Gold Alloys, Jewellery/ Artefacts - Fineness and Marking | IS 1417 : 1999 |
| 5. | 6500011795 | 20160114 | M/s. Jaffar Jewellery 54, Raja Street, Anthiyur, Bhavani – 638 501  | Gold and Gold Alloys, Jewellery/ Artefacts - Fineness and Marking | IS 1417 : 1999 |
| 6. | 6500011997 | 20160129 | M/s. Shree Kumar Jewellers 490-2, Kovai Main Road, Nambiyur, Gobichettipalayam (Taluk), Erode – 638 458     | Gold and Gold Alloys, Jewellery/ Artefacts - Fineness and Marking | IS 1417 : 1999 |

[No. CMD/13:11]

P. SESHAGIRI RAO, Scientist 'E' and Head

नई दिल्ली, 1 फरवरी, 2016

**का.आ. 256.—**भारतीय मानक व्यूरो (प्रमाणन) विनियम, 1988 के विनियमन 5 के उपविनियमन (6) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/स्थगित कर दिया गया है:—

## अनुसूची

| क्र० सं | लाइसेंस सं० सी एम/एल- | लाइसेंसधारी का नाम व पता | स्थगित किए गए/रद्द किए गए लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक | रद्द होने की तिथि |
|---------|-----------------------|--------------------------|--|-------------------|
|---------|-----------------------|--------------------------|--|-------------------|

जनवरी 2016 – शून्य

[सं. सीएमडी/13 : 13]

पी. सेषागिरी राव, वैज्ञानिक 'ई' एवं प्रमुख

New Delhi, the 1st February, 2016

**S.O. 256.—**In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies that the licence particulars of which are given below have been cancelled/suspended with effect from the date indicated against each:

## SCHEDULE

| Sl. No. | Licence No. | Name & Address of the Licensee | Article/Process with relevant Indian Standard covered by the licence cancelled/suspension | Date of Cancellation |
|---------|-------------|--------------------------------|---|----------------------|
|         | CM/L        |                                |   |                      |

January 2016 - NIL

[No. CMD/13 : 13]

P. SESHAGIRI RAO, Scientist 'E' and Head

## जल संसाधन, नदी विकास और गंगा संरक्षण मंत्रालय

नई दिल्ली, 2 फरवरी, 2016

**का.आ. 257.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987) के नियम 10 के उप-नियम (4) के अनुसरण में केन्द्रीय जल आयोग, नई दिल्ली के निम्नलिखित कार्यालय, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है :

मूल्यांकन निदेशालय, केन्द्रीय जल आयोग, नागपुर

[सं. ई-11011/16/2015-हिन्दी]

के. एम. एम. अलिमाल्मिगोति, आर्थिक सलाहकार

## MINISTRY OF WATER RESOURCES, RIVER DEVELOPMENT AND GANGA REJUVENATION

New Delhi, the 2nd February, 2016

**S.O. 257.**—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, (as amended in 1987) the Central Government hereby notifies the following Office of Central Water Commission, New Delhi, wherein more than 80% staff have acquired the working knowledge of Hindi :

Appraisal Directorate, Central Water Commission, Nagpur

[No. E-11011/16/2015-Hindi]

K. M. M. ALIMALMIGOTI, Economic Adviser

## कारपोरेट कार्य मंत्रालय

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 258.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में कारपोरेट कार्य मंत्रालय के अंतर्गत कंपनी विधि बोर्ड को, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है ।

[सं. ई-11016/1/2010-हिन्दी]

ए. अशोली चलाई, संयुक्त सचिव

## MINISTRY OF CORPORATE AFFAIRS

New Delhi, the 5th February, 2016

**S.O. 258.**—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies Company Law Board, under Ministry of Corporate Affairs, wherein more than 80% staff members have acquired working knowledge of Hindi.

[No. E-11016/1/2010-Hindi]

A. ASHOLI CHALAI, Jt. Secy.

## श्रम और रोजगार मंत्रालय

नई दिल्ली, 1 फरवरी, 2016

**का.आ. 259.**—राष्ट्रपति, श्री मुरलीधर प्रधान, पीठासीन अधिकारी, केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, हैदराबाद को दिनांक 29.01.2016 से छह माह की अवधि अथवा नियमित आधार पर इस पद के भेरे जाने तक अथवा अगले आदेशों तक, इनमें जो भी पहले हो, केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, बंगलोर के पीठासीन अधिकारी का अतिरिक्त प्रभार सौंपते हैं ।

[सं. ए-11016/03/2009-सीएलएस-II]

एस. के. सिंह, अवर सचिव

## MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 1st February, 2016

**S.O. 259.**—The President is pleased to entrust the additional charge of the post of Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore to Shri Muralidhar Pradhan, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Hyderabad for a period of six months with effect from 29.01.2016 or till the post is filled on regular basis or until further orders, whichever is the earliest.

[No. A-11016/03/2009-CLS-II]

S. K. SINGH, Under Secy.

नई दिल्ली, 2 फरवरी, 2016

**का.आ. 260.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार 36 विनफ एयरफोर्स, वडोदरा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट [संदर्भ (सीजीआईटीए) सं. 134/2006] को प्रकाशित करती है जो केन्द्रीय सरकार को 25/01/2016 को प्राप्त हुआ था ।

[सं. एल-14012/28/2005-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 2nd February, 2016

**S.O. 260.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [I.D. Reference (CGITA) No. 134/2006] of the Central Government Industrial Tribunal-cum-Labour Court, Ahemdabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the 36, Win Airforce, Vadodara and their workman, which was received by the Central Government on 25/01/2016.

[No. L-14012/28/2005-IR (DU)]

P. K. VENUGOPAL, Desk Officer



**AWARD**

The Government of India/Ministry of Labour , New Delhi by reference adjudication Order No. L-40011/15/2013-IR(DU) dated 08.04.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

**SCHEDULE**

“Whether the action of the management of M/s. Idea Cellular Services Ltd., Vadodara through its officers in terminating the services of Shri Mehul Arvindbhai Patel w.e.f. 27.12.2009 without complying the provisions of section 25(F) (G) & (H) of the ID Act, 1947 is legal and justified? To what relief the concerned workman is entitled to?”

2. This reference dates back to 08.06.2013. Second party was served by way of registered post on 23.02.2015, similarly, first party also served on 13.02.2015. But second party did not prefer to submit the statement of claim. Thus, it appears that both the parties are not willing to proceed with the reference as they have been absent since last several dates. Thus Tribunal has no option but to dismiss the reference in default of the parties.

This reference is dismissed in default of the parties.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 फरवरी, 2016

**का.आ. 262.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट [संदर्भ (सीजीआईटीए) सं.555/2004] को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/01/2016 को प्राप्त हुआ था।

[सं. एल-40012/255/2002-आईआर (डीयू)]

पी. के. वेनुगोपाल, डेस्क अधिकारी

New Delhi, the 2nd February, 2016

**S.O. 262.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award [I.D. Reference (CGITA) No. 555/2004] of the Central Government Industrial Tribunal Cum-Labour Court, Ahmedabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 25/01/2016.

[No. L-40012/255/2002-IR (DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
AHMEDABAD**

**Present :**

Pramod Kumar Chaturvedi, Presiding Officer,  
CGIT-cum-Labour Court, Ahmedabad

Dated 15th December, 2015

**Reference: (CGITA) No. 555/2004**

**Reference: (ITC) No. 29/2003**

1. The Sub Divisional Officer (Tele),  
BSNL, Deesa Telephone Exchange,  
Deesa(B.K.)- 385536
2. The General Manager,  
BSNL, Palanpur Telephone Exchange,  
Jorawal Palace,  
Palanpur (B.K.)
3. The Chief General Manager,  
Telecom Deptt.,  
Bharat Sanchar Nigam Ltd.,  
Khanpur,  
Ahmedabad (Gujarat)-380001

...First Party

**Vs.**

Their Workman,  
Shri Rameshbhai Meghrajbhai Pandya  
Through the Org. Secretary,  
Association of Railway and Post Employees,  
15, Shashi Apartment,  
Nr. Anjalee Cinema, Vasa Road,  
Ahmedabad (Gujarat)-380007

...Second Party

For the First Party : Sh. P.I. Shah, Advocate

For the Second Party : Sh. R.C. Pathak, Advocate

**AWARD**

The Government of India/Ministry of Labour ,New Delhi by reference adjudication Order No. L-40012/255/2002-IR(DU) dated 17.04.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

**SCHEDULE**

“Whether the action of the management of Telecom District Manager, Palanpur/SDOT, Deesa, BSNL (Telecom Department) in terminating the services of Sh. Rameshbhai Meghrajbhai Pandya is legal, Proper and justified? If not, to what relief the concerned workman is entitled to and since when?”

2. This reference dates back to 17.04.2003 but despite service on the workman(second Party), he did not prefer to submit the statement of claim till date. Thus it appears that workman (second Party) is not willing to proceed with the reference. Thus, the Tribunal has no option but to dismiss the reference in default of the workman (second party).

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 फरवरी, 2016

**का.आ. 263.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 6/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/01/2016 को प्राप्त हुआ था।

[सं. एल-40012/42/2008-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 2nd February, 2016

**S.O. 263.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 6/2009) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 25/01/2016.

[No. L-40012/42/2008-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, ROOM NO. 33, BLOCK-A, GROUND FLOOR, KARKARDOOMA COURT COMPLEX, KARKARDOOMA, DELHI**

**Present :** Shri Harbansh Kumar Saxena

**ID. NO. 6/2009**

Shri Dhyan Singh,  
S/o Radhey Singh,  
Vill: Milak Ajitpur, PO: Mankua,  
Bijnore

#### Versus

1. Chief General Manager, Telecom (West),  
Bharat Sanchar Nigam Limited,  
Windlass Shopping Complex, Rajpur Road,  
Dehradun-248001.

2. The Dy. General Manager(Adm.)  
Bharat Sanchar Nigam Limited,  
O/o Chief General Manager Telecom (West),  
Windlass Shopping Complex, Rajpur Road,  
Dehradun.

#### NO DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No. L-40012/42/2008-IR(DU) dated 10.02.2009 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of Bharat Sanchar Nigam Limited, Dehradun in terminating the service of their workman Shri Dhyan Singh w.e.f. 17.01.2001 is legal and justified? If not, to what relief the workman is entitled to?”

On 10.02.2009 reference was received in this Tribunal. Which was register as I.D No. 6/2009 and claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Workman Sh. Dhyan Singh, filed claim statement alongwith his affidavit on 10.09.2009. On the basis of contents of claim statement he prayed that he be reinstated in service alongwith full back wages.

Against claim statement written statement has been filed by management. On the basis of contents of written statement management prayed that reference is liable to be decided against workman and in favour of management and claim statement is liable to be dismissed.

This Tribunal has not framed any issue but proceeded to adjudicate on the basis of questions of determination mentioned in the schedule of reference and opportunity to workman to adduce its evidence were given. But neither he turn up nor his Ld. A/R nor any evidence on his behalf has been filed. So right of adducing his evidence has been closed on 18.12.2015. As there was no evidence of workman so there was no need to afford to management to adduce its evidence.

Award was reserved to pass no dispute award.

I perused the reference order, pleadings of parties. As there is no evidence of parties on record. Inwant of evidence of workman this Tribunal has no option except to decide reference against workman and in favour of management. Which is accordingly decided and claim statement is accordingly dismissed.

No dispute award is accordingly passed.

Dated:-2/1/2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 29 जनवरी, 2016

**का.आ. 264.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीबीएमबी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ सं. 1086/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/01/2016 को प्राप्त हुआ था।

[सं. एल-23012/28/2001-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 29th January, 2016

**S.O. 264.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1086/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of BBMB, BSL Project and their workmen, received by the Central Government on 29/01/2016.

[No. L-23012/28/2001-IR (CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1086/2005**

Registered on 20.9.2005

The General Secretary,  
BCB/BBMB Power Wing Mazdoor Union,  
Sundernagar ...Petitioner

Versus

The Supdt. Engineer,  
Dhar Power House, Circle,  
BBMB, Power Wing, Slapper,  
Mandi (HP) ...Respondent

#### APPEARANCES:

For the workman : Sh. R.K. Singh Parmar, Adv.

For the Management : Sh. Ravinder Sharma, Adv.

#### AWARD

Passed on:- 12.10.2015

Central Government vide Notification No. L-23012/28/2001-IR(CM-II) Dated 6.5.2002, by exercising its powers under Section 10 Sub-section (1) Clause (d) and Sub-section (2-A) of the Industrial Disputes Act, 1947

(hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the services rendered by Sh. Ved Prakash S/o Sh. Chaman Lal w.e.f. 17.2.1970 to 31.12.1976 and 1.1.1977 to 31.1.1981 in Beas Construction Board (Power Wing) on work charged basis be counted for pensionary benefits? If so, from which date?"

In response to the notice, statement of claim was filed by the Union on behalf of the workman pleading that workman Ved Parkash worked as 'Work Charge Employee' in Beas Construction Board from 17.2.1970 to 31.1.1981 and later on was absorbed in the respondent-Board from where he retired on 30.4.2005. His service for the period 17.2.1970 to 31.1.1981 in Beas Construction Board was not taken into consideration for granting the pensionary benefits and he is entitled to the same.

Respondent-management filed written reply pleading that respondent-board and the Beas Construction Board are different organizations and the Beas Construction Board ceased to exist on the completion of the work of the project. That workman was appointed with respondent-board afresh w.e.f. 1.2.1981 and he is not entitled to the benefit of service rendered by him in Beas Construction Board.

Parties were given opportunity to lead their evidence.

In support of his case Sh. Ved Prakash, workman appeared in the witness-box and filed his affidavit supporting his case as set out in the statement of claim.

On the other hand respondent-management has examined Sh. Ravinder Pal Singh, who filed his affidavit reiterating the stand taken by the respondent-management.

During the pendency, the workman died and his LRs were brought on record for the purpose of this reference as find mentioned in the application moved in this respect vide order dated 14.5.2015.

I have heard Sh. R.K. Singh Parmar for the workman and Sh. Ravinder Sharma for the management.

The only question which needs determination in the present reference is whether the service rendered by the workman as a 'Work Charge Employee' from 17.2.1970 to 31.1.1981 in Beas Construction Board is to be taken into consideration for the grant of Pensionary Benefits.

It is not disputed that the workman worked with Beas Construction Board for the above said period and he joined the respondent-management on 1.2.1981 when fresh appointment was given to him after the abolition of Beas Construction Board. Now according to the management, the management is a different organization than the Beas Construction Board and therefore, the services rendered by the workman in another organization i.e. Beas Construction Board cannot be taken into consideration

for the grant of pensionary benefits as much as the workman has received the retrenchment compensation when his services were terminated from Beas Construction Board. The question involved came for consideration before the Hon'ble High Court of Punjab & Haryana in Civil Writ Petition No.15666 of 1998 titled as Sohan Singh Vs. State of Punjab and Others wherein in similar situation when the services rendered by the workman in the Bhakra Dam and Beas Construction Board were not taken into consideration for the grant of pensionary benefits, it was held that the management was required to count the service rendered by the workman in Bhakra Project and Beas Construction Board while granting the pensionary benefits. Relying on instruction dated 4.7.1991 issued by the Board which read as follow:-

**“Subject :**

Grant of benefit of past service rendered by Ex-CGEs of B.C.B. Inducted into BBMB for the purposes of pension, Gratuity, Leave and Proficiency Step-up(S)

According to the existing instructions/orders the past service rendered by the Ex-Central Government Employees of B.C.B. Inducted in BBMB on fresh appointment is not counted in the BBMB for the purposes of grant of proficiency step-up(s). Entitlement of Casual/Earned Leave and grant of retirement benefits such as Pension, Gratuity, etc.

2. In partial modification of the instructions contained in Board's letter No. 8170-32/88208?BP/10/1-rr dated 26.3.84, 234/31200/82/10/Irr dated 28.4.84, 9921-60/B-1200/231/I-Irr Dated 31.3.86 & 15022-164/B-2/468/86/86/R&A dated 2.5.89 and in pursuance of the decision taken by the Board vide Item No.142.05 of its 142nd meeting held on 11.4.1991 at Chandigarh, I am directed to convey approval of the Board to the effect that the service rendered by Ex-Central Government Employees in B.C.B. inducted into BBMB on fresh appointment shall be counted in the BBMB for the purpose of:-

- (i) grant of Proficiency step-up(s)
- (ii) for determining the entitlement of Casual/earned leave for service in BBMB without any claim of carrying forward the Earned Leave earned for service in BCB;
- (iii) grant of retirement benefits of Pension & Gratuity.”,

It was held that Board is to count the service of the petitioner rendered by him in Bhakra Dam and under the Beas Construction Board as qualifying service for the grant of pension and the last para of judgement read as follow:-

“The present writ petition is allowed with a direction to the respondent-Board to count the service of the petitioner rendered under the Government of Punjab

in Bhakra Dam and under the Beas Construction Board towards qualifying service towards pension and accordingly grant pension to him.”

In view of this pronouncement of the Hon'ble High Court, the respondent-management cannot refuse to count the period from 17.1.1970 to 31.1.1981 for pensionary benefits to the workman.

In result the reference is answered holding that service of the workman from 17.2.1970 to 31.1.1981 with Beas Construction Board is to be counted for Pensionary Benefits and the respondent-management is accordingly directed to count the said period for the grant of pension. The reference is answered accordingly.

**KEWAL KRISHAN, Presiding Officer**

नई दिल्ली, 29 जनवरी, 2016

**का.आ. 265.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपीबीएफ के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ सं. 1281/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29/01/2016 को प्राप्त हुआ था।

[सं. एल-42012/238/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 29th January, 2016

**S.O. 265.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1281/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Central Poultry Breeding Farm and their workmen, received by the Central Government on 29/01/2016.

[No. L-42012/238/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT-II,  
CHANDIGARH**

**Present:** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 1281/2006**

Registered on 13.9.2006

Sh. Harchand Singh C/o Shri H.S. Hundal,  
Chamber No.112, Distt. Courts, Sector 17,  
Chandigarh

...Applicant

**Versus**

1. The Director,  
Central Poultry Breeding Farm,  
Industrial Area, Phase-I,  
Chandigarh ...Respondent

**APPEARANCES:**

For the workman - Sh. H.S. Hundal, Adv.  
For the Management - Dr. Sushila Bhardwaj

**AWARD**

Passed on:-13.10.2015

Vide Order No.L-42012/238/2005-IR(CM-II), dated 11.08.2006 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of Central Poultry Breeding Farm in retiring Sh. Harchand Singh, Driver on attaining the age of 58 years is legal and justified? If not, to what relief the workman is entitled?”

In response to the notice, the workman appeared and submitted statement of claim pleading that he was appointed as ‘Driver’ at Central Poultry Breeding Farm on 29.5.1968 and retired from service on 31.1.1999 on attaining the age of 58 years. It is pleaded that Central Poultry Breeding Farm, Chandigarh was taken over by Central Government along with all assets and liabilities w.e.f. 1.4.1978 and option was given to employees to continue in Punjab Pay Scale or to switch over Central Pay Scale. The workman opted for Punjab pay scale though he was governed by the service rules of the Central Government. As per Service Rules of the Central Government, he was to retire on attaining the age of 60 years but he was retired at the age of 58 years, which is illegal. That other employees who were similarly placed continued serving up to the age of 60 years as ordered by the Central Administrative Tribunal, Chandigarh, vide its order dated 28.2.2005.

Since the workman was retired before the completion of 60 years, he be paid the wages for two years and other benefits.

The respondent-management filed written statement admitting the averments and pleaded that the workman was governed by rules under which he was to retire on attaining the age of 58 years and accordingly he was retired at that age. That the order of the Central Administrative Tribunal was passed in the year 2005, whereas the workman retired in the year 1999 and he is not entitled to get the benefit. It is further pleaded that respondent-management is not an industry and the workman is not a ‘workman’ as defined under the Act.

Parties were given opportunity to lead its evidence. The reference was answered against the workman vide award dated 27.4.2012.

The workman preferred Civil Writ Petition No.10386 of 2013 which was allowed with the following observations:-

“A reading of the judgement would go on to show that the onus had to be placed upon the petitioner-workman to establish the issue in hand and he would have obviously led evidence to substantiate his claim which then could have been adjudicated upon by the Labour Court based on the evidence produced by the parties so that it fell within the case of the triple test as laid down in Bangalore Water Supply and Sewerage Board’s case(supra). Once the said procedure was not followed, the workman has been gravely prejudiced by the slip short method in which the matter has been decided by the Tribunal and without putting the workman to guard that the onus was upon him.

Resultantly, this Court is of the opinion that the Labour Court has failed to exercise jurisdiction vested in it by law and not followed the settled procedure for adjudicating on the dispute in question and violated the principles of natural justice and the said award cannot be justified. Further, merely because other employees had got the relief from the Central Administrative Tribunal, would not be a ground to reject the reference and it was for the Labour Court to decide on merits.

Accordingly, the said award is quashed. The matter is remanded to the Labour Court to decide it afresh after taking into consideration the observations made above, in accordance with law.”

Thus, the award was set aside.

On receipt of the order, the following issues were framed:-

- (i) Whether respondent No.2 is an Industry.
- (ii) Relief

Parties were given opportunity to lead its evidence.

I have heard Sh. Jasvir Singh for the workman and Dr. Sushila Bhardwaj for the management. Issue-wise findings are as follow:-

**Issue No.1:-**

In support of this issue, the workman has deposed in his affidavit that respondent-management is doing commercial activity by producing and selling Chicks etc. and maintaining a counter at the main gate.

On the other hand Dr. K. Ravi Kumar has simply deposed in his affidavit that the management do not come under the definition of ‘industry’.

It was contended by the learned counsel for the management that respondent-management is only engaged in the work of uplifting poultry farm by producing chicks etc. and giving training to farmers, and therefore, it is not an 'Industry', as defined in Section 2A of the Act.

I have considered the contention of the learned counsel.

The Hon'ble Supreme Court in Bangalore Water Supply Vs. A. Rajappa and others, reported AIR1978 Supreme Court 548 considered the definition of 'industry' and held in para 61 of the judgement which is as follow:-

'Industry', as defined in S. 2(j) and explained in Banerji (AIR 1953 SC58) has a wide import.

- (a) Where (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss i.e. making, on a large scale Prasad or food) *prima facie*, there is an industry' in that enterprise.
- (b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.
- (c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.
- (d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.'

Thus, where systematic activity is organized for commercial purposes for the production and distribution of goods, that institution is an 'Industry'.

Workman has specifically pleaded that the respondent-management do commercial activity by producing and selling chicks, broilers, eggs etc. Dr. Ravi Kumar has admitted in cross-examination that chicks are supplied to the State Government for Poultry development against price and the surplus chicks are also sold to the public. Thus, the respondent-management produce chicks etc and sell the same. In its progress report for the year 2013-14 placed on file shows the respondent-management has shown the revenue receipts as 203.51 lacks. These facts leave no doubt that respondent-management falls within the definition of 'industry' as defined under Section 2(j) of the Act. This issue is decided in favour of the workman.

#### Issue No.2:- Relief

There is no denial of the fact that the workman worked as a 'driver' with respondent-management, which

was taken over by the Central Government w.e.f. 1.4.1978 by issuing a notification dated 31.7.1978 along with its existing assets and liabilities along with existing staff. It is again not denied that option was given to the employees to opt for the pay-scales whether they want the pay-scale of the Punjab Government or of the Central Government. The workman opted for Punjab Pay-scales. It is only on account of that option, that he was retired at the age of 58 years as per the Punjab Civil Service Rules. The option of pay-scales and service rules are different and distinct and once the farm along with its staff was taken over by the Central Government, the Central Government service rules were to be applied to the service of the workman, though he opted for pay scale of Punjab. When it was so, he was to retire at the age of 60 years. It is again not denied that some of the workmen approached the Central Administrative Tribunal, Chandigarh and they were retired at the age of 60 years as clear from the copy of the order dated 28.2.2005, Exb.W6.

In these circumstances the workman was to be retired on attaining the age of 60 years but he was retired at the age of 58 years. Therefore, he is entitled to salary for a period of two years as he was wrongly retired on attaining the age of 58 years whereas he was to be retire on attaining the age of 60 years. Since the workman agitated the matter after a long time of his retirement, he is not entitled to any other benefits for the said period and more particularly when he did not perform any duty.

In result the reference is answered holding that action of the management of the respondent-management in retiring the workman on attaining the age of 58 years is not legal and justified and he is entitled to get salary for the period of two years i.e. up to the age of 60 years without any other benefit and the reference is answered accordingly in favour of the workman.

KEWAL KRISHAN, Presiding Officer

रवि विल्ली, 29 जनवरी, 2016

**का.आ. 266.—**आईयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपीडब्ल्यूडी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आईयोगिक विवाद में केन्द्रीय सरकार आईयोगिक अधिकरण/श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ सं. 485/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/01/2016 को प्राप्त हुआ था।

[सं. एल-42012/242/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 29th January, 2016

**S.O. 266.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.

No. 485/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2 Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Chandigarh Central Division, CPWD and their workmen, received by the Central Government on 29/01/2016.

[No. L-42012/242/2004-IR (CM-II)]

RAJENDER SINGH, Section Officer

**ANNEXURE**

**IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT-II,  
CHANDIGARH**

**Present:** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 485/2005**

Registered on 25.8.2005

The Zonal Secretary,  
All India CPWD (MRM)  
Karamchari Sangathan,  
CPWD Store Building,  
Sector 7-B, Chandigarh ...Petitioner

**Versus**

The Executive Engineer,  
Chandigarh Central Division,  
CPWD, Chandigarh ...Respondent

**APPEARANCES:**

For the workman : Sh. S.D. Sharma, Adv.

For the Management : Sh. Sanjiv Sharma, Adv.

**AWARD**

Passed on:- 28.9.2015

Vide Order No.L-42012/242/2004-IR(CM-II), dated 9.8.2005 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of CPWD in imposing condition of qualifying Trade Test for grant of financial upgradation under ACP Scheme in respect of Subhash Chand and others is legal and justified? If not, to what relief they are entitled?”

In response to the notice, the workmen appeared and submitted statement of claim, pleading that they were working as Wireman/Operator with the respondent-management and having completed 12 years/24 years of service and belong to Grade ‘C’ service. The Government of India, Ministry of Personnel, Public Grievances and Pensions, introduced ACP Scheme, vide office memo dated 9.8.1999, to overcome the problem of stagnation. In view

of the said scheme, all the workmen are entitled to get the benefits and management has withheld the same without any reason.

The management filed written reply pleading that workmen are entitled to financial upgradation as per ACP Scheme introduced by the Government w.e.f. 9.8.1999. But pleaded that financial upgradation was subject to the condition that workmen possesses Electrical Supervisory Certificate and also passed a Trade Test and since the workmen did not possess the said qualifications, they were not given the benefits.

Parties were given opportunities to produce their evidence.

In support of his case, Sh. Subhash Chand, one of the workmen appeared in the witness-box and filed his affidavit reiterating the case as set out in the claim petition.

On the other hand, respondent-management examined Sh. K.K. Gupta, Executive Engineer, who filed his affidavit supporting the case of the respondent-management.

I have heard S.D. Sharma for the workmen and Sh. Sanjiv Sharma for the management and perused the file.

The Government of India issued memo dated 9.8.1999 for implementing ACP Scheme due to stagnation and hardship faced by the employees and its relevant para 3 read as follow:-

3. GROUP ‘B’, ‘C’ AND ‘D’ SERVICES/POSTS AND ISOLATED POSTS IN GROUP ‘A’, ‘B’, ‘C’ AND ‘D’ CATEGORIES

“While in respect of these categories also promotion shall continue to be duly earned, it is proposed to adopt the ACP Scheme in a modified form to mitigate hardship in cases of acute stagnation either in a cadre or in an isolated post. Keeping in view all relevant factors, it has therefore, been decided to grant two financial upgradations [as recommended by the Fifth Central Pay Commission and also in accordance with the Agreed Settlement dated September 11,1997 (in relation to Group ‘C’ and ‘D’ employees, entered into with the Staff Side of the National Council (JCM)] under the ACP Scheme to Group ‘B’, ‘C’ and ‘D’ employees on completion of 12 years and 24 years (subject to condition No.4 in Annexure-I) of regular service respectively. Isolated posts in Group ‘A’, ‘B’, ‘C’ and ‘D’ categories which have no promotional avenues shall also qualify for similar benefits on the pattern indicated above. Certain categories of employees such as casual employees (including those with temporary status), ad-hoc and contract employees shall not qualify for benefits under the aforesaid Scheme. Grant of

financial upgradations under the ACP Scheme shall, however, be subject to the conditions mentioned in Annexure-I.”

Thus, the workmen belonging to Group ‘C’, were to be given financial upgradations on completion of 12 years and 24 years of service subject to the condition as find mentioned in Annexure-I, attached with the said memo.

Condition No.4 of Annexure-I, read as follow:-

“The first financial upgradation under the ACP Scheme shall be allowed after 12 years of regular service and the second upgradation after 12 years of regular service from the date of the first financial upgradation subject to fulfillment of prescribed conditions. In other words, if the first upgradation gets postponed on account of the employee not found fit or due to departmental proceedings, etc this would have consequential effect on the second upgradation which would also get deferred accordingly;”

Thus, upgradation is to be given subject to fulfillment of prescribed conditions. Now, according to the management, the passing of Trade Test and Electrical Certificate is required for giving financial upgradation.

It was argued by the learned counsel for the management that the workman did not pass the Trade Test as well do not possess Electrical Supervisor Certificate and therefore, they are not entitled for financial upgradation as per ACP Scheme implemented by the government. When asked to show the relevant rules which lay the condition for passing the Trade Test and possessing of Electrical Supervisor Certificate before granting financial upgradation as per ACP Scheme, he failed to mention any rules in this respect. Though the ACP Scheme, as stated above, provides for the fulfillment of prescribed conditions for awarding financial upgradation to the employee, but it is not shown that any rule did exist on the day when the ACP Scheme was implemented, nor the learned counsel was able to show any such relevant rules prescribing the said conditions and in the circumstances, the benefit of ACP Scheme issued by the Government vide memo dated 9.8.1999 cannot be denied to the present workmen.

In result, it is held that the workmen are entitled to get the benefit of ACP Scheme issued by the government vide memo dated 9.8.1999.

Resultantly, the reference is answered holding that the imposition of condition of qualifying Trade Test for grant of financial upgradation under the ACP Scheme to the workman is illegal and they are entitled to the benefits of ACP Scheme issued vide memo dated 9.8.1999 and the reference is answered accordingly.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 29 जनवरी, 2016

**का.आ. 267.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट वाद संख्या 1/2015 (संदर्भ सं. 138/97 के तहत) को प्रकाशित करती है जो केन्द्रीय सरकार को 29/01/2016 को प्राप्त हुआ था।

[सं. एल-22012/170/1996-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 29th January, 2016

**S.O. 267.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Complaint No. 1/2015 (Arising out of Ref. No. 138/97) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of FCI and their workmen, received by the Central Government on 29/01/2016.

[No. L-22012/170/1996-IR (CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.I), DHANBAD

In the matter of a Complaint U/S 33(a) of I.D. Act, 1947

#### COMPLAINT NO. 1/2015

(Arising out of Ref. No. 138/97)

Ministry Order No. 22012/170/96-IR(C-II)

Vijay Shankar Prasad, Ex-Manager (D)

Presently residing at House No. 5,

Kidwaipuri, Patna -1

...Complainant

**Vrs.**

Executive Director, East Zone

Food Corporation of India

10-A, Middleton Row

Kolkata -71

...Opposite party

#### Present :

Sri Ranjan Kumar Saran, Presiding Officer

#### Appearances :

For complainant : Sri Vijayendra Kumar, Rep.

For opposite party : Sri Anshu Sharma, AGM

Industry : Food

Dated : 28.12.2015

### AWARD

2. This case is filed by the complainant under section 33A of the ID Act 1947 against his penalty of reduction of pay to initial pay scale of Manager (D) by Opp. Party.

3. The case of the complainant is that, charge sheet dated 19.01.2013 was issued against the complainant. Sri M K Mundotiya, AGM FCI was appointed as enquiry officer. Sri Kamlesh Kumar Singh, Manager FCI, RO, Patna was appointed as Presenting officer on behalf of the prosecution. It is also admitted that notice was issued to prosecution witnesses but not even a single witness was examined and no document was exhibited on behalf of the prosecution. No defence witness was examined but the learned enquiry officer without examine PWs, DWs and also without marking of document submitted his report holding therein that the charges against the complainant are proved beyond doubt.

4. It is also submitted by the complaint that after sending report to the delinquent complainant was directed to offer his comment on the enquiry report and accordingly the complainant has given his comment stating therein that in fact, no enquiry was conducted in absence of non-examination of PWs and DWs and even not a single document was exhibited on behalf of the Opp. Party, therefore, the inquiry itself is illegal and no action be taken on the basis of this report but the Opp. Party has passed an order of punishment dated 22.01.2015 of reduction of pay to the initial pay in the time scale of pay to the post of Manager (D) now retired with further direction that the penalty will be effective on his date of retirement which is illegal and unjustified.

5. It is further submitted that as per regulation 58 of FCI staff regulation no punishment under major penalty shall be imposed without conducting an enquiry as provided in the said regulation but a major penalty has been imposed without holding an enquiry as per regulation 58 which is illegal and unjustified and clear cut abuse of the power by Opp. Party.

6. It is also submitted by the complainant that the alleged charges over which he was punished he was not responsible for the same as per FCI storage manual and the charges was levelled against him out of bias to victimize him illegally and it is obvious that there is force in the contention of the complainant. This fact was not opposed by the Opp. Party during hearing of the case. It is further submitted that the order of penalty has been given retrospective effect which is not permissible in the eye of law as any order affecting the right and privilege of an employee shall not be given retrospective effect.

7. The case of the Opp. Party is that, it is submitted in his written statement that the present case arises out of an order of penalty dated 22.01.2015 passed by the disciplinary authority. This penalty order dated 22.01.2015 has been impugned in this complaint case filed under

section 33 A of the I.D. Act, 1947. The penalty order has been passed by the disciplinary authority on account of misconduct committed by the complainant and for which charge sheet dated 19.01.2013 under the major penalty clause of regulation 58 read with regulation 60 A of the FCI staff regulations. 1971. In the departmental inquiry, the complainant has been found to be guilty of the charge, following the due process.

8. It is also submitted by the Opp. Party that the complainant was charge sheeted on account of commission of misconduct of excess shortage of stock which was detected during the annual physical verification conducted as on 31.03.2012 and found excess and shortage of stock in different sheds in FSD, Gaya. The excess and shortage of stock have been quantified as Rs. 1,58,88,873/- and 3,03,42,381/- respectively. For this misconduct the complainant alongwith others was charge sheeted and found guilty of charges and imposing a penalty of reduction to the initial pay in the time scale of pay to the post of manager (D) now retired. The penalty will be effective on the date of his retirement.

9. The above punishment dated 22.01.2015 is challenged in this complainant petition. Notice was issued to the Opp. Party and he appeared and filed a detailed Written statement and also examined witnesses.

10. The fairness of the enquiry was also challenged by the complainant and it was mentioned in the report of the I.O., that no PWs and DWs were examined in the case by the I.O. as such after hearing both the parties, the enquiry proceeding were held unfair and improper vide order dated 23.04.2015 and Opp. party was again given a chance to lead additional evidence to justify their action and accordingly two witnesses were examined by the Opp. Party as Sri M.K. Mantodia (MW-1) the enquiry Officer, and Sri Kamlesh Kr. Singh (MW-2).

11. In cross-examination of MW-1, it is fairly admitted that previously he was not appointed as IO, PO or DA in any case and as such he is not aware of the rule of domestic enquiry and is having no experience regarding enquiry. He has further admitted that despite notice PWs were not turned up and they were not examined. He has further said that the PO was unable to examine MWs in their behalf. It was also admitted by him that no document was marked and he had not having scope to see those document. He has further admitted that he has submitted his report on the basis of the document shown to him by the Presenting Officer even without examining the DWs. Lastly the IO has confessed that, since I did not get scope to examine the parties, I have to submit report without materials.

12. The MW-2 was the Presenting Officer of this case and he has said in his chief that I do not remember, whether the Charge Officer and their witness were allowed to adduce evidence or not. In cross-examination he said that the enquiry records will speaks, whether witness have been examined or exhibits are marked.

13. The Opp. Party raised objection as preliminary issue that complainant is not a workman and is not connected with the pending dispute. This point has already been decided in other cases of FCI by this Tribunal but the Management of FCI is taking this plea only with a view to delay the disposal of the case by adopting dilatory tactics. The Hon'ble Delhi High Court has already decided in his judgement dated 05.08.2011 in a case between FCI Vs. Govt. of India that Manager (D) in FCI is Workman and no appeal against this order is filed by FCI as such Opp. Party is not at liberty to raise this matter in each and every cases. The above attempt is being made by the Opp. Party to keep the matter pending on one pretext and the other only with a motive to harass the workmen and this should not be allowed to continue.

14. It is admitted fact that, ref. nos. 138 of 1997 was pending before this court when the complaint was filed and being a workman of Bihar region he is' certainly concerned and connected to this dispute as changing the pay structure is certainly alteration in service condition during pendency of dispute and it was mandatory on the part of the OP to take prior permission from this Tribunal failing which the order of punishment becomes ineffective from the date it was passed. (AIR 2002 SC PAGE -643).

15. The enquiry has already been held unfair and improper and Opp. Party has completely failed to justify their action even after giving chance to lead additional evidence, therefore, entire action of the IO as well as Opp. Party is illegal and unjustified and abuse of power to harm a poor workman like the complainant.

16. Considering the facts and circumstance of this case, the order of the Opp. Party dated 22.01.2015, in light of evidence of the IO and citations advanced by the complainant, there is no difficulty in holding that the entire enquiry proceeding and punishment is abuse of power and the same is illegal and unjustified. Hence the complainant is entitled to get his scale of pay restored and he is also entitle to get post-retirement benefits accordingly.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 268.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपीडब्ल्यूडी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 100/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[सं. एल-42012/214/2003-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 268.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 100/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of Central Public Works Department and their workmen, received by the Central Government on 03/02/2016.

[No. L-42012/214/2003-IR (CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A)  
of I.D. Act, 1947

#### Reference No. 100 of 2004

Employer in relation to the Management of Central  
Public Works Department

AND

Their workman

#### Present:

Sri R.K.Saran, Presiding Officer

#### Appearances:

For the Employers : Shri D.K.Verma, Advocate

For the Workman : Shri Satish Kumar, Rep.

State : Bihar Industry : Urban Development

Dated- 11/01/2016

#### AWARD

By order No. L-42012/214/2003/IR (C-II) dated 22/11/2004, the Central Government in the Ministry of Labour has, in exercise the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

#### SCHEDULE

“Whether the action of the management of CPWD, Patna in not regularizing the services of Sh. Santosh Kumar, Motor Lorry Driver from the date of his initial appointment is legal and justified? If not, to what relief the said workmen is entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, Ld. Representative

for the workman submits that workman is not interested to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 269.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपीडब्ल्यूडी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 103/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[सं. एल-42012/217/2003-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 269.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 103/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of Central Public Works Department and their workmen, received by the Central Government on 03/02/2016.

[No. L-42012/217/2003-IR (C-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A)  
of I.D. Act, 1947

#### Reference No. 103 of 2004

Employer in relation to the Management of Central  
Public Works Department

AND

Their workman

#### Present:

Sri R.K.Saran, Presiding Officer

#### Appearances:

For the Employers : Shri D. K. Verma, Advocate

For the Workman : Shri Satish Kumar, Rep

State : Bihar Industry : Urban Development

Dated- 11/01/2016

#### AWARD

By order No. L-42012/217/2003/IR (C-II) dated 22/11/2004, the Central Government in the Ministry of Labour has, in exercise the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

#### SCHEDULE

“Whether the action of the management of CPWD, Patna in not regularizing the services of Sh. Rajendra Prasad Thakur, Beldar from the date of his initial appointment is legal and justified? If not, to what relief the said workmen is entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, Ld. Representative for the workman submits that workman is not interested to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 270.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपीडब्ल्यूडी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ सं. 104/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[सं. एल-42012/216/2003-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 270.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 104/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of Central Public Works Department and their workmen, received by the Central Government on 03/02/2016.

[No. L-42012/216/2003-IR (CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A)  
of I.D. Act, 1947

**Reference No. 104 of 2004**

Employer in relation to the Management of Central  
Public Works Department

AND

Their workman

**Present :** Sri R.K.Saran, Presiding Officer

**Appearances :**

For the Employers : Shri D. K. Verma, Advocate

For the Workman : Shri Satish Kumar, Rep

State : Bihar Industry : Urban Development

Dated : 11/01/2016

**AWARD**

By order No. L-42012/216/2003/IR (CM-II) dated 22/11/2004, the Central Government in the Ministry of Labour has, in exercise the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

**SCHEDULE**

“Whether the action of the management of CPWD, Patna in not regularizing the services of Sh. Sunil Kumar Manjhi, Beldar from the date of his initial appointment is legal and justified? If not, to what relief the said workmen is entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, Ld. Representative for the workman submits that workman is not interested to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 271.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीएसआरआईआर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 39/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[सं. एल-42012/214/2001-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 271.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 39/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Council for Scientific Research and Ind. Research and their workmen, received by the Central Government on 03/02/2016.

[No. L-42012/214/2001-IR (C-II)]

RAJENDER SINGH, Section Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, ROOM NO.33, BLOCK-A, GROUND FLOOR, KARKARDOOMA COURT COMPLEX, KARKARDOOMA, DELHI 110 032**

**Present :** Shri HARBANS KUMAR SAXENA

**ID. No. 39/2005**

Sh. Prem Kumar,  
S/o Sh. Dilbagh Singh,  
C/o Sh. M.N. Singh,  
X/1837, Park Marg,  
Rajgarh Colony,  
Delhi-110031

...Workman

**Versus**

1. The Head H.R.D.G.  
Council for Scientific Research  
& Ind. Research,  
Dr. K.S. Krishan Marg,  
Pusa Raod,  
New Delhi-110012

2. M/o Science & Technology,  
Technology Bhawan,  
New Mehrauli Road,  
New Delhi

...Management

**AWARD**

The Central Government in the Ministry of Labour vide notification No. L-42012/214/2001-IR(C-II) dated 27.04.2005 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the demand of Shri Prem Kumar S/o Shri Dilbagh Singh from the management of CSIR that he may be reinstated in the service with benefits of continuity and payment of full back wages is just, fair and legal? If so, to what relief is the workman entitled?

On 12.05.2005 reference was received in this Tribunal. Which was register as I.D No. 39/2005 and claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 20.07.2005. Through which he prayed as follows:-

This Hon'ble Court may be pleased to pass an award in the present Industrial Dispute declaring the terminating of services of the workman as illegal and unjustified and thereby hold the workman entitled to reinstatement in service alongwith its continuity and full back wages for the forced unemployment period.

Against claim statement management filed written statement on 08.01.2008. Through which management prayed as follows:-

Claimant on 10.9.2008 filed rejoinder. Through which he reaffirmed the contents of claim statement.

My Ld. Predecessor on 9.4.2013 framed following issues:-

1. Whether there exists any relationship of employer and employee between the parties?
2. Whether management is not an industry within the meaning of section 2(j) of the Industrial Dispute Act, 1947?
3. As in terms of reference.

Workman in support of his case filed his affidavit on 7.11.2013.

Workman tendered his affidavit on 18.12.2013 and he was part cross-examined on same day. His statement of tendering of affidavit and part cross-examination is as follows:-

I tender my affidavit Ex. WW1/A. Which bears my signature at point 'A' and 'B'. I reply upon my documents Ex. WW1/1 to Ex. WW1/17.

XXX:-By. Sh. Kapil Sharma, Ld. A/R for the management.

I was appointed by the order of Sh. S.C. Dhawan. I do not know whether there is any advertisement for the vacancy or not. I do not know the procedure of appointment in the Government offices. I was working with Dr. Devender Sharma. There I came in contact with Sh. S.C. Dhawan. Dr. Sharma was also working with CSIR. I do not know whether Mr. Dhawan is appointing authority or not. I was not given appointment letter by the management. Vol. By Dr. S.C. Dhawan I was given in writing in green sheet that I have been appointed for six month and the same will be extended time to time.

I do not have the copy of the order appointing me initially right now I do not the copy. I was not given any notice of termination.

Cross deferred.

On 10.06.2014 workman's remaining cross-examination was concluded. His statement of cross-examination is as follows:-

I do not get the order voluntarily they were kept in the office. Mr. Dhawan send a note to the department for the extension of my job.

It is wrong to suggest that no such order ever passed and no such noting was ever sent by Mr. Dhawan to the department. I never received any appointment letter though

I used to demand the appointment letter from the department. Vol. for which I was threatened to remove for the job. There was one clerk who check my document and take me to Mr. Dhawan.

It is wrong to suggest that I was appointed in the establishment through contractor.

I was not given any salary slip. However in making payment I was get to sign on the blank paper. For the first year, I received my salary from Sh. Rajinder, Clerk and after that from Sh. B. Kamalakar Rao, PRO who used to disbursed the salary. It is wrong to suggest that my salary was disbursed through management. I was appoint as helper/peon. I was given different salary at different point of time. I was given payment on the basis of daily wages. It is wrong to suggest that I was appointed through contractor who paid me. It is correct that documents filed by me in my evidence has been issued by Mr. Dhawan but I cannot say whether he was authority to issue those.

It is incorrect to suggest that I produce false and forged documents. It is correct that no termination notice was given to me but it is wrong that it was not given to me as I was not employee of the management. No service book was given to me by department. It is wrong to suggest that I was terminated by contractor not by department.

In the light of contention and counter contentions as well as written arguments of the parties I perused the order questions of determination mentioned in schedule of reference, Pleadings of claim statement, written statement and rejoinder as well as evidence of workman on record.

**My issue wise finding is as follows:-**

Filing on question of determination /issue no. 1.

**Issue no. 1 is as follows:-**

"Whether there exists any relationship of employer and employee between the parties?"

Burden to prove this issue lies on management but in the instant case management adduced no evidence in spite of several opportunities.

So, this Tribunal has closed the evidence of management on 20.8.2014 against that order management neither moved application in this Tribunal nor filed revision in superior court. So order of closing of right of management evidence has become final.

In this background there is no evidence of management to prove issue no.1 due to which issue no. 1 is liable to be decided against management and in favour of workman. Which is accordingly decided.

**Finding on question of determination/issue no. 2**

Issue no. 2 is as follows:-

"Whether management is not an industry within the meaning of section 2(j) of the Industrial Dispute Act, 1947?"

Perusal of issue no. 2 makes it crystal clear that burden to prove this issue lies on management. In the instant case management has adduced no evidence to prove this issue. His right of adducing evidence has been closed by this Tribunal on 20.08.2014. Against which management has not moved application for setting aside order of management. Nor filed any revision against order of closing the evidence of management. So order of closing the evidence of management has become final. In want of evidence of management issue no. 2 is liable to be decided against management and in favour of workman which is accordingly decided.

### Finding on question of determination/issue no. 3

Issue no. 3 is as follows:-

“As in terms of reference”

Perusal of issue no. 3 makes it crystal clear that burden to prove lies on workman. Workman to discharge his burden to prove issue no. 3 filed his affidavit in his evidence which was tendered alongwith relevant copies of documents. Workman was cross-examined but nothing could be extracted out in his cross-examination. Which may favour to management.

So workman adduced his evidence which come in the category of reliable and credible evidence. Especially in the instant case wherein no evidence of management. So workman is entitled for relief but in the instant case workman claimed relief that his termination of services is illegal and unjustified. He also claimed for reinstatement in services along with its continuity and full back wages for the forced unemployed period.

So it is a fit case wherein settled law of supreme court on the point of compensation is applicable.

In the light of contentions and counter contentions I perused the settled law of Hon'ble Supreme court on the point of reinstatement and grant of back wages. Which shows that reinstatement is not a necessary consequence wherever termination is held illegal. Depending upon the facts of each case a suitable compensation can be awarded. In Assistant Engineer, Rajasthan Dev. Corporation and Anr Vs. Gitam Singh, (2013) II LLJ 141 Hon'ble Supreme Court has held that reinstatement of workman with continuity of service and 25% back wages was not proper in the facts and circumstances of the case and the compensation of Rs.50,000/- (Rs. Fifty Thousand Only) shall meet the ends of justice. In Jagbir Singh Vs. Haryana State Agriculture Marketing Board & Anr. AIR 2009 Supreme Court 3004, Hon'ble Supreme Court held thus “the award of reinstatement with full back wages in a case where the workman has completed 240 days of work in a year preceding the date of termination particularly, daily wagers has not been found to be proper by this Court and instead compensation has been awarded.” In catena of Judgments, Hon'ble Supreme Court has taken a view that

reinstatement is not automatic, merely because the termination is illegal or in contravention of S-25-F of the Industrial Dispute Act. In Talwara Co-operative Credit and Service Society Limited Vs. Sushil Kumar (2008) 9 SCC 486, Hon'ble Supreme Court held thus, “grant of relief of reinstatement, it is trite, is not automatic. Grant of back wages is also not automatic.”

Workman of the instant case was not appointed by following due procedure and as per rules. He had rendered service with the respondent as a casual worker, thus, entitled for compensation.

Thus Reference is decided in favour of workman and against Management and claim statement is liable to be allowed. Which is accordingly decided and management is directed to pay compensation of Rs. 50000/- (Rs. Fifty thousand only) by way of damages as compensation to the workman/claimant within two month by management after expiry of period of limitation of available remedy against Award. That will meet the ends of Justice.

Award is accordingly passed.

Dated:-6.10.2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 272.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट वाद संख्या 6/2014 (संदर्भ सं. 138/97 के तहत) को प्रकाशित करती है जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[सं. एल-22012/170/1996-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 272.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Complaint No. 6/2014 (Arising out of Ref. No. 138/97) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of FCI and their workmen, received by the Central Government on 03/02/2016.

[No. L-22012/170/1996-IR (CM-II)]

RAJENDER SINGH, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.I), DHANBAD

In the matter of a Complaint U/S 33(a) of I.D. Act, 1947

**COMPLAINT NO. 6/2014**

(Arising out of Ref. No.138/97)

Ministry Order No. 22012/170/96-IR(C-II)

Mahesh Sharma & 22 Others  
 Watchman, Presently employed at  
 District Office, FCI,  
 Dhanbad

...Complainant

**Vrs.**

General Manager (Region)  
 Food Corporation of India  
 New Collectriate Building  
 Block "A" 4th Floor  
 Kutchary Road  
 Ranchi (Jharkhand)

...Opposite party

**Present :**

Sri Ranjan Kumar Saran, Presiding Officer

**Appearances :**

For complainant : Sri Vijayendra Kumar, Rep.  
 For opposite party : Smt Shanti Neelima Kachhap,  
 AGM  
 Industry : Food  
 Dated.14/01/2016

**AWARD**

2. This case is filed by the complainant collectively under section 33A of the ID Act, 1947 against the notice dated 27.09.2013 and 07.05.2014 in which all 23 workman's name is mentioned. The present complaint arose when this Tribunal was in session of dispute of Ref. No. 138 of 1997.

3. The case of the complainant is that the complainant along with 23 others are watchmen employed at District Office, Dhanbad. The all complainant were employed as casual employee at FSD Koderma prior to 01.09.1985 but were retrenched by the Opp. Party in gross violation of Sec. 25 F of the I.D Act, 1947 and ultimately a dispute was raised regarding illegal retrenchment and non-regularisation of service of 24 casual workmen. The said dispute was referred in the CGIT No.II Dhanbad by the Govt. of India. Registered as Reference No. 94 of 1995 and ultimately an award was passed holding their retrenchment in violation of Sec. 25 of I.D Act was illegal and it was also directed to regularise their services w.e.f. 01.09.1985 as watchman under Cat-IV post as there was huge vacancy against the post.

4. It is also submitted by the complainant that the award was passed on 17.09.1996 by CGIT No.II but a writ petition was filed by the management of FCI before the Patna High Court, Ranchi Bench bearing CWJC No. 559 of 1997 and the same was disposed on 04.11.97 by the

Hon'ble High Court and upheld their reinstatement as directed by the Tribunal but modified the part of direction regarding their regularisation w.e.f. 01.09.1985 and the matter of regularisation was left for consideration by the FCI management.

5. It is also submitted by the complainant that Opp. Party/management being dissatisfied the upholding of their reinstatement, filed LPA bearing No. 579 of 1997 against the order of the Single Judge and prayer of the Opp. Party was rejected by the Hon'ble Division Bench vide order dated 06.04.1998.

6. One LPA also filed by the Union against the observation of the Single Judge about consideration of their regularisation by FCI, Which was granted and the award of Tribunal become fully enforceable. Thereafter the Opp. Party filed SLP before the Hon'ble Supreme Court against both the order i.e. order of Division Bench dated 06.04.1998 and SLP No. 12393 -12393 of 1998, was listed for hearing on 04.01.1999 but the Hon'ble Supreme Court directed the FCI management to first reinstate all the 24 casual employee then the SLP will be taken up for hearing.

7. Thereafter in accordance with the order of the Hon'ble Supreme Court, the District Manager, FCI Hazaribagh issued an order on 12.02.1999 and reinstated them as casual employee with immediate effect. The Union pointed out about date of reinstatement. The SLP was finally disposed of re-storing the order of learned Single Judge about consideration of their regularisation.

8. It is also submitted by the Complainant that after order of Hon'ble Supreme Court of reinstatement w.e.f 01.09.1985 was not issued by the FCI management therefore contempt petition no. 367-368 of 1999 was filed by the union against D.M Hazaribagh for reinstatement date i.e. 17.09.96 instead of 01.09.1985. Thereafter Hon'ble Supreme Court again passed modification order on 07.02.2000 in contempt petition. Thereafter D.M Hazaribagh issued modified order of their appointment in the post of watchman w.e.f. 01.09.1985

9. The regional office Patna vide letter dated 01.07.2000, it is held that since all the 24 casual employee has already been regularised as watchman, they are entitled to get all other benefits w.e.f. 01.09.1985 of watchman in the time scale of pay of FCI and accordingly they are getting pay and allowance of watchman w.e.f. 01.09.1985 along with all other benefits with revision of their pay scale from time to time.

10. The case of the Opp. Party is that the complaint petition does not mention as to under what provision of law it has been filed. It contains, in para-3 thereof an allegation regarding necessity in law of prior permission for change of condition of service as per section 33 (1) of I.D. Act. The complaint petition in which he has impugned a show-cause notice. It is obvious that a show cause notice

by itself has not brought about any change in the service condition.

11. It is also submitted by the Opp. Party that the show cause notice dated 07.05.2014 has not brought about any change in the condition of service of the complainant rather the show cause notice is an opportunity of hearing flowing from the principle of natural justice and it is impossible to ascertain as to how such rendering of natural justice can result in change in service condition of the complainant. Any change in the condition of service is a subject provided for in section 9 A of the I.D Act as laid down therein. It has to be read along with the fourth schedule to the said Act. A mere glance over these statutory provision will reveal the absence of substance in the whole case of the complainant. Even if all the allegation are assumed to be correct there is no change in the condition of service.

12. It is also submitted by the Opp. Party that the present matter of disengagement of a non-regularised casual labourer like the complainant cannot be said to be a matter connected with the dispute of overtime. It is said that the complainant allegation that all the 24 casual employees have already been regularised as watchmen vide letter dated 01.07.2000 is completely false and incorrect.

13. It is submitted but the Opp. Party that this present complaint petition purportedly under section 33(1) of the Industrial Dispute Act is absolutely misconceived. Section 33(1) of the I.D Act does not grant any scope for challenging an order of non-regularisation particularly in the context of the reasons for the same as contained in the said order itself which is a speaking order. Hence the question of any change in condition of service thereby does not arise.

14. It is admitted case of the management that they are getting their pay and allowances of the watchman in the regular pay scale of FCI. It is further admitted that the post of watchman on which they are working is a substantive and regular post in FCI. Beside their salary in the regular scale of pay they are also getting other fringe benefits like LTC, Medical, lunch, Conveyance etc. which are admissible to the regular staff of the Corporation. Their pay scale has been revised three times from the date of their appointment.

15. It is also undisputed that regular pay scale is being given only to regular employee of the corporation. Fringe benefits like EL, CL, Medical, Leave and other attending benefits are being given to the regular employee and the complainants are getting all the facilities since 01.09.1985. They are being transferred from one place to other, proceeded under staff regulation and their service book and leave account has also been opened in which they are shown regular and permanent. Their CPF are being deducted and in the CPF schedule they are being shown regular and permanent. The aforesaid facts are admitted by the OP and also these are clear from the records filed in

this case. It is held that complainant are the regular employee of the FCI since 01.09.1985, In view of Ext. W-8, W-9 and W-10.

16. It is also not under dispute that during 2000 the SRM FCI Patna has already taken a decision and implemented the said decision w.e.f 1.9.85 as per award then how a junior officer who was holding temporary charge has issued the notice in 2013 & 2014 when the matter was set at rest during 2000 by the competent authority. In the notice they have agitated the fact which was raised by the management from Tribunal to Apex court but the same was rejected by the court as such it is not open for the Opp. Party to raise such frivolous point which has already been decided by the Apex court.

17. It is further said that during 2000 Bihar and Jharkhand was one region and SRM Patna was the head of the region and during his tenure the case of the complainants was decided finally as such after lapses of 14 years. GM incharge of Jharkhand region is not competent to issue such notice & order to the complainants as it amounts to change in grade or status of the workman and the same is clear cut change in the service condition of the complainant during the pendency of ref no. 138/97, therefore, there is violation of Sec. 33(1) of the ID Act, 1947 and notice and order dated 27.9.2013 and 07.5.14 is quite illegal and unjustified and accordingly it is liable to be set aside.

18. During argument it was submitted by the workmen that the OP has stopped some of the benefits which was being given earlier to the complainants posted under Jharkhand region whereas the workmen posted under Bihar region is still getting the same as such OP be directed to extend all benefits to them also. It was further submitted that the complainant are entitled to get their promotion in higher post but the same is not given to them due to the above notice as such OP be directed to give them all the benefits including promotion .

19. On perusal of Ext.W-15 & W-16 it is found that out of 23 workmen 15 are posted under Bihar region 7 are under Jharkhand region and 1 is under Odisha region. All the regions are headed by General Manager and they are competent to take decision in respect of the officials posted under respective region but General Manager JHARKHAND has issued the said order and notice against the complainants posted under BIHAR and ODISHA region also for which he is not competent and thus the order issued by him is completely illegal and unjustified being without jurisdiction. Not only this, GM FCI Jharkhand is not competent to issue such notice against 7 complainants posted under him as the matter which has already been set at rest by GM FCI Bihar in 2000 shall not be reopened in 2014 by GM Jharkhand, therefore, the order and notice issued against all the 23 workmen are illegal and unjustified.

20. The Opp. Party i.e. FCI management has cited the Uma Devi's case and alleged that as per the ratio of Uma Devi case, the backdoor entry of the workmen has been prohibited and accordingly the management is not regularising them even though the High Court & Apex Court passed order.

21. This Tribunal perused all connected documents i.e. award of CGIT No.II, Order of High Court Single Bench, Division Bench and the Apex Court. Moreover as per the judgement and order of the Apex Court, the Opp. Party i.e. FCI management reinstated the complainant in the post of watchmen in class IV post w.e.f 01.09.1985.

22. As per Exhibit W-10 the workmen's notional pay was fixed w.e.f. 01.09.1985 with all other benefits, from the document filed by the workmen it is found that their P.F was also deducted from the Opp. Party.

23. Since the workmen have already been regularised by the Opp. Party their pay etc. have been fixed as per the order of the Apex Court in regular post, the order of termination is not only illegal but it will create further controversy & litigation. Therefore the order of Opp. Party dated 27.09.2013 and notice dated 07.05.2014 to the workmen is illegal & unjustified. Hence it is hereby set aside. Accordingly they are eligible all benefits of regular employee of the Corporation including promotion.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 273.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/त्रिम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 79/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[सं. एल-12012/25/2001-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 273.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Union Bank of India and their workmen, received by the Central Government on 03-02-2016.

[No. L-12012/25/2001-IR (B-II)]

RAVI KUMAR, Desk Officer

## ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

#### PRESENT:

RAKESH KUMAR, Presiding Officer

I.D. No. 79/2001

Ref.No. L-12012/25/2001-IR(B-II) dated 14.05.2001

#### BETWEEN:

Sri Amar Kumar S/o Sri Om Prakas  
Through Sh. O.P.Mathur,  
117/K-36, Sarvodaya Nagar  
Kanpur (U.P.) 208005

AND

Asstt. General Manager  
Union Bank of India  
Pandu Nagar  
Kanpur (U.P.) 208005

#### AWARD

1. By order No. L-12012/25/2001-IR(B-II) dated 14.05.2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri Amar Kumar S/o Sri Om Prakas, Kanpur and the Asstt. General Manager, Union Bank of India, Kanpur for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE REGIONAL MANAGER, UNION BANK OF INDIA, KANPUR IN TERMINATING THE SERVICES OF SRI AMAR KUMAR W.E.F. 30.01.1999 IS LEGAL AND JUSTIFIED? IF NOT, TO WHAT RELIEF THE CONCERNED WORKMAN IS ENTITLED TO?”

3. As per the claim statement, the workman has stated in brief that after an interview and other formalities, he was appointed as class IV in Oct.1994 in the Union Bank of India, Permat branch, Kanpur, the employers intentionally did not issue appointment letter so that the applicant might be exploited later on. The workman has stated that he was poor and unemployed, he was unable to look after his family, therefore when he came to know that there was some vacancy of Peon (class IV employee) in the UBI he moved application before the Branch Manager of the said branch. It has been stressed in the claim statement that the applicant used to perform all the duties of Peon viz., to post the documents, to get the papers faxed and photo copy, to keep the currency notes stapled/sewed, to provide the file regarding clearing etc. and to keep the ledger registers as well. The claimant has stated that his work has always been quite satisfactory,

he is very laborious and sincere, there was no complaint against him before the employers.

4. It has been asserted in the claim statement that the applicant had regularly worked since Oct. 1994 till 30.01.1999, thereafter the opposite party/employer orally terminated his services, which was highly improper and it amounted to unfair labour practice. It has been alleged in the claim statement that the bank managers did not prepare any voucher in the name of the applicant, vouchers were intentionally prepared bearing fake names viz. Amit Kumar, Ajit Kumar etc. The applicant has further stated that the work done by him for the aforesaid period in the bank was of regular nature having continuity and essentiality. The applicant has emphasized that the aforesaid branch of the bank is very big branch, having sufficient work for class IV employees, 2 employees are departmental out of them one is disabled (deaf and dumb), therefore Branch Manager in order to accomplish the official bank work employs additional officials, and in order to avoid the claim of that additional hand for regularization, vouchers were being prepared in the fake and fictitious names.

5. The applicant in the claim statement has also stressed upon the fact that before termination of services no prior notice was given nor retrenchment compensation was provided, after dismissal of the applicant the opposite party has employed another person named Sri Ajay. Violation of Section 25 H of the ID Act has been alleged by the applicant, during conciliation proceeding the employer took the plea that the applicant is so called appointment was not as per rules. The applicant has prayed for severe and drastic action against such officer and his dismissal is improper unjust and illegal and it shows the malice of the employer. The applicant has prayed for his reinstatement alongwith all facilities.

6. The opposite party bank has filed written statement paper No.7 wherein assertion of the claim statement has been denied. The opposite party has stated that there was no Class IV employee vacancy at Permat branch, Kanpur at any point of time therefore no question of any recruitment as ever arising. Pleas taken in the claim statement have been levelled by the opposite party as false and concocted. The opposite party has further stated that it is an unit under notification of Govt. of India and has got its own rules for appointment of Peons, no person can be appointed as Peon otherwise ignoring those rules. The opposite party has emphasized that the applicant could never legally be employed by the Branch Manager of the said branch, there was already sufficient strength of the Peon at the branch and as such there could be no occasion to appoint applicant as Peon. So called performance of the applicant has been denied in the written statement. While citing the pronouncement of Hon'ble Supreme Court in 1997 LIC 2075 Himanshu Kumar Vidyarathi Vs. State of Bihar, the opposite party has

asserted that the provisions of I.D Act., do not operate in such type of cases, the claim of the claimant pertaining to so called illegal termination is not tenable. The opposite party has stressed that since the applicant was not appointed nor his alleged employment is in accordance with rules therefore question of so called illegal termination does not arise. The opposite party has prayed that the applicant is not entitled to any relief.

7. The rejoinder paper No.4 has been filed by the claimant with the strong denial of the assertions taken in the written statement, reiterating the pleas taken in the claim statement. As per the list paper No.5 several photo copies of certain documents, so called vouchers, have been filed by the claimant.

8. AI-37 affidavit of Amar Kumar has been adduced in the evidence, he was duly cross-examined on behalf of the management. The management's AGM (Personnel) was cross-examined by the workman. The evidence of Sri K.P. Dixit, Branch Manager of the said bank was also adduced, he was duly cross-examined on behalf of the workman. The management has filed certain photo copies attested by Notary as per list C-58.

9. Record available before the court has been scanned minutely. Arguments of both the parties have been heard at length.

10. The workman has come up with a case that he was engaged as Class IV employee but was not served upon any appointment letter and he continued to work as such from October, 94 to 30.01.99 continuously; but the employers have terminated his services without any rhyme or reason or complying with the mandatory provisions of Section 25 F of the Act. The workman has submitted that the management has made him payment through payment vouchers in his name and in other fictitious names also.

11. In rebuttal the management has contended that the workman was never appointed by it, as the opposite party Bank being an undertaking of the Government of India has got its rules for appointment of peon etc. and Branch Manager is not authorized to appoint any one in any capacity. It was also contended that the workman never worked for 240 days continuously in any calendar year and there was no termination/retrenchment at any point of time since the workman was a casual labour whose services were availed by the branch intermittently; and this does not violate any of the provisions of the Industrial Disputes Act, 1947.

12. I have scanned entire evidence available on record in light of the rival pleading and respective pleadings of the parties.

13. It is well settled that if a party challenges the legality of an action/order the burden lies upon him to prove illegality of the action/order and if no evidence is produced, the party invoking jurisdiction of the court must fail. In

the present case, burden was on the workman to set out the grounds to challenge the validity of the termination order and to prove that the termination order was illegal. It was the case of the workman that he had worked for more than 240 days in each calendar year. This claim has been denied by the management; therefore, it was for the workman to lead evidence to show that he had in fact worked for 240 days in the year preceding his alleged termination. In Range Forest Officer vs S.T. Hadimani (2002) 3 SCC 25 Hon'ble Apex Court has observed as under:

"It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days or order or record of appointment or engagement for that period was produced by the workman. On this ground alone, the award is liable to be set aside."

14. In Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai 2005 (107) FLR 1145 (SC) Hon'ble Apex Court came to the conclusion that the workman could be entitled for the protection of section 25 – F of the Industrial Disputes Act, 1947 provided he is successful in establishing the fact that he had been in employment with the employer for a period of 240 days uninterruptedly. It was held by the Hon'ble Supreme Court that in such cases, the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

"The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination."

Thus, in order to substantiate the workman has filed number of photocopy of the documents, less any appointment letter or termination order; rather it has been pleaded that no appointment letter was given to him; likewise his services have been termination orally. The workman also tried to summon the payment vouchers for the relevant period and payment details and the at the directions of this Tribunal to file statement regarding payment of labour charges and expenses paid to the

workman from October, 1994 to 30.01.99; but contrary to the claim of the workman the signatures of the workman does not find its reference in the "Receiver's Signature" column. Also, the photocopy of the payment vouchers filed by the management do not constitute that the workman had worked for 240 days in twelve calendar months preceding the alleged date of termination on 30.01.99. Moreover, the paper No. 5/25, filed by the workman which is "details of vouchers payments to the workman" also is of no help for the workman to substantiate his claim that he worked for 240 days in the year preceding the date of alleged termination; rather it goes contrary to the claim of the workman where he has claimed to be terminated w.e.f. 30.1.99 but in the said paper, the last detail of payment is of 23.04.99, which makes his claim vague.

15. Admittedly no appointment letter was issued; and also, there is no evidence of the workman that the Branch Manager of the Bank was competent to appoint any one in capacity of Peon. The details of payment relied upon by the workman do not show that the workman actually worked for 240 days in a year preceding the date of termination i.e. 30.01.99. Thus, the workman has utterly failed to discharge the burden that lied upon him and has failed to substantiate his pleading by cogent documentary evidence that he was actually in the services of the management of Union Bank of India and he worked for 240 days during period 01.02.98 to 30.01.99 i.e. one year preceding the date of his termination; and his services were terminated in violation of Section 25 of the I.D. Act, 2005, without giving him any notice or notice pay in lieu thereof or any retrenchment compensation.

16. Mere pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work for 240 days in a year is on the workman but he has failed to discharge the same. There is no reliable material for recording findings that the workman had worked for more than 240 days in the preceding year from the date of his alleged termination and the alleged unjust or illegal order of termination was passed by the management.

17. Accordingly, the reference is adjudicated against the workman, Amar Kumar and I come to the conclusion that he is not entitled to any relief.

18. Award as above.

Lucknow

28th December, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 274.—** औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ सं. 522/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[सं. एल-12011/235/2001-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 274.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 522/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 03-02-2016.

[No. L-12011/235/2001-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

##### Present:

Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No.522/2005**

Registered on 30.1.2004

Sh. Pankaj Malik, S/o  
Sh. Bhagat Singh Malik,  
R/o 254, Model Town,  
Ambala City ...Petitioner

Versus

The Management Punjab National Bank,  
Zonal Office, PNB House, Sector-17-D,  
Chandigarh through its  
Zonal Manager ...Respondent

##### APPEARANCES:

For the workman : Sh. R.K. Parmar

For the Management : Sh. N. K. Zakhmi, Advocate

##### AWARD

Passed on:- 26.11.2015

Central Government vide Notification No. L-12011/235/2001-IR(B-II) Dated 24.5.2002, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of Punjab National Bank in imposing the punishment of

stoppage of annual graded increment to Sh. Pankaj Malik, Clerk-cum-Cashier, Ambala City, is just and legal? If not, what relief the workman is entitled to?"

In response to the notice, the workman appeared and submitted statement of claim and the management filed reply.

The facts, emerging are, that the workman was employed as Clerk-cum-Cashier with the respondent bank at Ambala and he was served with the following charge-sheet dated 7.7.1997 and the relevant portion read as follow:-

1. On 26.11.1996 a customer named Sanjeev Walia opened a SF A/c with Rs.300/- with PNB Model Town, Ambala City. As per duty sheet you were required to prepare the Pass Book on the same day but you failed to prepare the same and asked the customer to visit on next day. Next day also when the customer visited the Bank at about 3.30 P.M. you refused to prepare the Pass Book and said to the customer 'TIME IS OVER'.

Thereafter your section in charge Sh. I.R. Grover, Special Assistant asked you to prepare the Pass Book but you did not prepare the same. After that the Senior Manager, Sh. R.D. Kailey also asked you to prepare the Pass Book in order to satisfy the customer but you failed to obey the orders.

2. On 28.11.1996 you were served with a letter dated 27.11.96. you refused to accept the letter and instead wrote in the dispatch register itself.
3. On 6.2.1997 you were advised to keep the ledgers in proper order as there were many loose sheets in number of ledgers. To facilitate early completion of the job you were verbally advised by your section in charge Sh. I.R. Grover, Special Assistant and then by Sh. A.K. Passi, Assistant Manager working as Hall in charge on that day to do this job exclusively and arrangement of another clerk was made for your seat. You refused to obey the reasonable orders of your superiors and insisted for issuance of office order. You did not start the work until 11.40 AM that too after the office order was issued.
4. About 4.30 PM on the same day i.e. 6.2.1997 on enquiry from your section in charge Sh. I.R. Grover, Special Assistant it was found that you had shuffled only 2 ledgers during the whole day. You were called to the cabin of the Senior Manager and enquired about the progress. When Senior Manager told you that about 8-10 times he had gone out into the hall and had found you missing from your seat you shouted at him.

5. On 29.4.1997 you left 22 vouchers unposted in SF ledgers and left the office without even informing your section incharge.

Your above acts tantamounts to gross misconduct under Section 19.5(e) of the Bi-partite Settlement as amended.

He submitted reply and after considering the same, an Inquiry Officer was appointed who conducted the inquiry. The Inquiry Officer submitted its report finding all the charges as proved. After serving a show cause notice on the workman, punishment was awarded for stoppage of one annual graded increment with cumulative effect.

Workman has pleaded that the inquiry was not conducted as per rules and even the documents produced by the management were not supplied to him. The findings are not based on evidence and the punishment awarded on the basis of unfair inquiry be set aside.

According to the management, the inquiry was conducted fairly and as per rules and considering the 'misconduct' of the workman, punishment has rightly been awarded.

The inquiry was held to be fair and proper by this court vide order dated 12.8.2009. The finding recorded was not challenged by the workman. Therefore, the inquiry conducted in this case is fair and proper.

I have heard Sh. R.K. Parmar for the workman and Sh. N.K. Zakhmi for the management regarding the legality of the punishment awarded to the workman.

Sh. R.K. Parmar has argued that one annual grade increment was stopped with cumulative effect which is harsh and the same be reduced. Suffice to say that workman was charge-sheeted on five accounts and all the charges were proved. It is for the punishing authority to take the view, what punishment is to be awarded to the delinquent official and this court cannot interfere lightly with the punishment so awarded by the punishing authority. The workman was charged for not performing the duty properly and even shown disobedience and disrespect to his superiors and in the given circumstance, the punishment awarded to him i.e. 'stoppage' of one annual grade increment with cumulative effect cannot be termed as disproportionate to the 'misconduct' committed by the workman. Thus, the punishment awarded, do not call for any interference.

In result the reference is answered holding that the punishment awarded to the workman is legal and valid and he is not entitled to any relief.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 275.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूको बैंक के

प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़ के पंचाट (संदर्भ सं. 341/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[ सं. एल-12011/06/2014-आईआर (बी-II) ]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 275.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 341/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of UCO Bank and their workmen, received by the Central Government on 03-02-2016.

[No. L-12011/06/2014-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

#### Present:

Sri Kewal Krishan, Presiding Office

**Case No. I.D. No. 341/2013**

Registered on 19.3.2014

State Secretary,

UCO Bank Employees Association (HP State),  
C/o UCO Bank Kandaghat-173215,

Distt. Solan (HP) ...Petitioner

#### Versus

1. Asstt. General Manager,  
UCO Bank, Zonal Office,  
Shyam Nagar, Dharamsala.

2. Asstt. General Manager,  
HRM, UCO Bank, Head Office,  
10, Brabourne Road,  
Kolkatta-700001(W.B.) ...Respondents

#### APPEARANCES:

For the workman : Workman ex parte

For the Management : Management ex parte

#### AWARD

Passed on:- 26.11.2015

Central Government vide Notification No. L-12011/06/2014 IR(B-II) Dated 3.3.2014, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the action of the management of Asstt. General Manager, UCO Bank, Zonal Office, Shyam Nagar, Dharamshala and the Asstt. General Manager, UCO Bank, Head Office, 10 Brabourne Road, Kolkata-700001 in transferring Sh. Joginder S/o Late Sh. Harnam Dass & Suresh Sood S/o Late Sh. P.C. Sood is just, valid and legal? What benefits these workmen are entitled for and what directions are necessary in the matter?”

In response to the notice, the workmen filled statement of claim pleading that Joginder Singh and Suresh Sood are the employees of the respondent-bank. There is a rotational transfer of workmen conducted as per guidelines issued vide circular dated 10.3.1993 as well as there is redeployment policy which is meant to facilitating movement of surplus clerical staff. That the said persons namely Joginder and Suresh Sood were transferred in violation of the policy dated 9.4.2013 and despite the fact, the workmen raised an Industrial Dispute before the Labour Commissioner and the orders were passed in the back date.

Respondent-management filed written reply pleading that as per Government guidelines, clerical staff is to be transferred on completion of five years of service at a particular Branch and Mr. Joginder was posted in the branch since 5.1.1987 and Suresh Sood since 1.3.1987 and now they were transferred. That there is no illegality in the transfer orders.

The workmen appeared through Secretary of the Union namely Sh. Ajit Puri, who did not appear after filing claim statement. Notice were again given to the workmen through registered cover and none appeared on their behalf and they were proceeded ex parte vide order dated 8.7.2015.

None appeared on behalf of the management on 12.11.2015 and therefore, respondent No.1 was also proceeded against ex parte.

I have perused the file.

The dispute is regarding the transfer of the workmen from one branch to another. The workmen did not lead any evidence to show that transfer was made in violation of any rules or policy. The transfer of an employee from one station to another is feature of the service. No one can raise an objection regarding transfer. A specific stand was taken by the respondent-management that the employees were transferred within the limits of Dharamshala and that too on completion of the term of more than five years at the branch. In the circumstances, the transfer of the workmen cannot be termed as illegal.

In result, the reference is decided against the workmen and they are not entitled to any relief.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 3 फरवरी, 2016

**का.आ. 276.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार के नेता बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 10/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[सं. एल-12012/66/2014-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 276.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Canara Bank and their workmen, received by the Central Government on 03-02-2016.

[No. L-12012/66/2014-IR (B-II)]

RAVI KUMAR, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 17th December, 2015

#### Present :

K.P. PRASANNA KUMARI, Presiding Officer

#### Industrial Dispute No. 10/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Canara Bank and their workman)

#### BETWEEN:

Sri S. Vijayakumar : 1st Party/Petitioner

AND

The General Manager : 2nd Party/Respondent  
Canara Bank, Circle Office  
524, Anna Salai, Teynampet  
Chennai-600018

#### Appearance:

For the 1st Party/ Petitioner : Sri C.R. Chandrasekaran,  
Advocate

For the 2nd Party/ Management : Sri P. Amirtharaj, Advocate

## AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/66/2014-IR (B.II) dated 06/09.01.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Management of Canara Bank, Chennai regarding termination of the services of Sri S. Vijayakumar and declining of regularization as Subordinate Staff is justifiable or not? What relief the petitioner is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 10/2015 and issued notices to both sides. Both sides have entered appearance through their counsel and filed claim and counter statement respectively. The petitioner has filed a rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner was in the service of the Respondent Bank at its Porur Branch continuously without any break from 20.08.2007 to 08.04.2010, the date on which he was orally terminated. While the petitioner was in service, he was paid wages every weekend, earlier @ Rs. 64/- per day and later @ 66/- per day. The payment was not in accordance with the scales of pay fixed messenger. According to the 8th and 9th Bipartite Settlement there has not been any fixed working hours for the petitioner. He reported for duty around 0900 AM and remained at the premises until 0800 to 0900 PM, till the premises was closed. He was the first to attend the branch and open and clean the premises and did the scavenging and toiler work. He was entrusted with the duties of a permanent messenger besides cleaning and scavenging work. When the Cash Peon was on leave he was doing the work of Cash Peon also. The petitioner had worked for more than 240 days in a period of one year during his continuous service from 28.07.2007 to 08.04.2010. The Respondent had paid him bonus for the year 2008-2009 and 2009-2010. He had been repeatedly requesting the Respondent to take him as a permanent Staff and pay him regular wages. But Porur Branch Manager asked the petitioner not to report of duty from 09.04.2010, thus orally terminating him. One Nithya was appointed as Messenger in the place of the petitioner on 09.04.2010. Earlier the petitioner had been working in KK Nagar Branch from 2002 to 2006 mostly in leave vacancies whenever the permanent incumbent was on leave. Consequent to the termination of the petitioner from Porur Branch he was raised the dispute. The conciliation before the Asstt. Labour Commissioner ended in failure

and the dispute has been referred to this Tribunal. An order may be passed holding that the action of the Management of Canara Bank terminating the service of the petitioner and declining his regularization is not justifiable and that he is entitled to reinstatement in the service of Canara Bank with all attendant benefits.

4. The Respondent has filed Counter Statement contending as below:

The terms of reference are contradictory and as such bad in law. The Claim Statement itself shows that the claimant was not a regular appointee of the Bank. Such persons have no enforceable legal right for claiming absorption or regularization in public employment. The Respondent Bank has certain norms for recruiting employees in each cadre. Whenever regular part-time employee goes on leave persons are engaged on those days and wages are paid accordingly. Since such engagement is intermittent, no employer-employee relationship exists between such persons and the Bank. The contention that the petitioner was working as Messenger is utterly false. The Porur Branch where the petitioner claims to have been engaged from 2007 till 2010 was having permanent subordinate staff since the inception of the Branch. The petitioner was engaged in the branch intermittently for cleaning work. After April 2010 he did not turn up to the Branch nor was he engaged thereafter. Now the Branch is having regular staff for cleaning work. The petitioner was never recruited/appointed in any of the posts of the Bank and was not an employee in the rolls of the Bank. So the question of his termination from service does not arise. The petitioner has raised the dispute after a lapse of three years. Nithya referred to by the petitioner in the Claim Statement was engaged on daily wage basis for doing the sweeping and cleaning work initially and later absorbed as part-time employee in 1/3rd scale wages as vacancy accrued at the Branch. Thereafter she was regularized as full scale time housekeeper cum peon in terms of settlement arrived with the majority union. It is incorrect to state that the petitioner was working at KK Nagar Branch of the Respondent from 2002 to 2006. After opening of Maduravoyal Branch on 19.11.2014 the petitioner had asked for cleaning work if any and the branch had engaged him intermittently for cleaning work. The said Branch also has got a regular housekeeper-cum-peon. There is no vacancy at the Branch. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the averments in the Counter Statement and reiterating his case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W18 and Ext.M1 to Ext.M3.

7. **The points for consideration are:**

- (i) Whether the action of the Respondent in terminating the service of the petitioner and declining regularization as Subordinate Staff is justifiable or not?
- (ii) What, if any is the relief to which the petitioner is entitled?

**The Points**

8. The petitioner has claimed that he had been working on daily wages at Porur Branch of the Respondent Bank without any break from 20.08.2007 until he was orally terminated on 08.04.2010. According to the petitioner there is no justification for the Bank for orally terminating him.

9. What is seen from the schedule of reference of the Government is that the petitioner is challenging the termination as well as seeking regularization in the service of the Respondent Bank. He has stated in the prayer portion of the Claim Statement that the action of the Management in terminating his service and declining his regularization are not justifiable. However, in the later portion of his prayer he is seeking reinstatement in the service of the Bank only without demanding the relief of regularization. It is to be assumed that the relief claimed by the petitioner is reinstatement in the service of the Respondent only and not regularization in the service of the Respondent.

10. The Respondent has admitted in the Counter Statement that the petitioner was engaged in Porur Branch intermittently for cleaning work. According to the Respondent the petitioner had not turned up at the branch after April 2010 and there was no occasion to engage him thereafter. It is the further case of the Respondent that the petitioner was doing only cleaning work in the Branch. The Branch was having a permanent subordinate staff from the inception. Even from the Claim Statement of the petitioner it is seen that there was a Cash Peon at the Branch. The claim of the petitioner is that he was doing the work of Cash Peon also in his absence. Thus it could be seen from the Claim Statement and Counter Statement that the petitioner was working with the Respondent on daily wages, even if his claim that he was working at Porur branch continuously for the period from 20.08.2007 to 08.04.2010 is correct.

11. A perusal of the documents produced by the petitioner would show that the petitioner was attending the Bank almost continuously during the period claimed by him. Ext.W8 is the details regarding bonus paid to the petitioner for the year 2008-2009 and Ext.W9 is the details regarding bonus paid to him for the year 2009-2010. Ext.W8 (Page-37) gives the details of payment made to the petitioner from April 2008 to March 2009. It is clear from

the evidence of the petitioner that he was being paid @ Rs. 64/- or Rs. 66/- per day. Page-37 reveals that the petitioner was paid in between Rs. 1,252 to 1,848/- in the months from April 2008 to March 2009. This would show that he must have been attending his work at the Bank on almost all days. On perusal of Ext.W9 giving the details of bonus for the year 2009-2010 (Page-40) it is seen that he was paid in between Rs. 990/- and Rs. 1,914/-. These payments also show that he was attending the branch almost regularly even though there might have been some variation in the number of days attended. Though as daily wager he was doing work at the Bank almost on all days as could be deciphered from these details. Ext.W6 shows payment of wages to the petitioner starting from 20.08.2007. Most of the payments are for period of 6 days @ Rs. 64/- per day. Payments are seen made for almost all days except on holidays. Such payments are seen made for the period upto 08.04.2010. From Ext.W7-statement of expenses of Porur Branch, payments are seen made to the petitioner towards coolie charges. Thus what is to be seen from the documents is that the petitioner, though as a daily wager was working at Porur Branch almost continuously from 20.08.2007 to 08.04.2010.

12. The case of the respondent is that the petitioner failed to turn up after 08.04.2010 and that is why another person was appointed in his place. When the documents are perused this case does not seem to be correct. Ext.W6 reveals payment to the petitioner on 10.04.2010 for three days from 06.04.2010 to 08.04.2010. On the same date payment is seen made to Nithya for the days 09.04.2010 and 10.04.2010. so it could not have been a case of the petitioner absenting himself and Nithya being engaged. The fact that the petitioner was paid for 08.04.2010 and Nithya was paid for 09.04.2010 would show that the case of the petitioner that he was stopped from attending work by the Branch Manager so that another person could be engaged is correct. The same Nithya who was engaged in the place of the petitioner as a daily wager was later regularized in service as could be seen from Ext.M3, though the regularization is on 26.02.2014 much later.

13. There is no case for the Respondent that it was after complying with Section-25F of the ID Act that the petitioner was disengaged from service. Even though engaged on daily basis the petitioner was entitled to the benefits under Section-25F of the ID Act.

14. The petitioner has claimed reinstatement in the service of the Respondent. However even as admitted by the Bank and is the case of the Petitioner, now the petitioner is doing the same kind of work on daily basis in another branch of the Respondent. The petitioner would not be entitled to reinstatement based on his termination from Porur Branch. The proper remedy for the petitioner would

be compensation as held by the Apex Court in several cases. Considering that the petitioner had worked with the Respondent in its Porur Branch for three years before he was terminated, compensation payable to the petitioner is fixed as Rs. 2,00,000/- . The Respondent is directed to pay the petitioner Rs. 2,00,000/- as compensation within a month of publication of the award. If not paid within the prescribed period, the amount will carry interest @ 7.5% per annum.

The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined :**

For the 1st Party/ : WW1, Sri S. Vijayakumar  
Petitioner

For the 2nd Party/ : MW1, Sri K.S. Murali  
Management

**Documents Marked :**

**On the petitioner's side**

| Ex.No.  | Date                     | Description  |
|---------|--------------------------|--|
| Ext.W1  | 19.10.1966               | First Bipartite Settlement   |
| Ext.W2  | 31.03.1970               | Banking Companies (A & T) Act  |
| Ext.W3  | 23.06.1993               | Transfer Certificate   |
| Ext.W4  | 26.08.2003               | Community Certificate  |
| Ext.W5  | 26.06.2008               | Second Party's Circular – Preservation of Old Records  |
| Ext.W6  | 25.08.2007 to 08.04.2010 | Statements of wages paid in Porur Branch (copies of vouchers not furnished)  |
| Ext.W7  | -                        | Statement of expenses in Porur Branch (but not furnished for 11.09.2007 upto 26.03.2010) (copies of vouchers also not furnished) |
| Ext.W8  | 17.06.2009               | Bonus for 2008-2009 with calculations  |
| Ext.W9  | 05.07.2010               | Bonus for 2009-2010 with calculations  |
| Ext.W10 | 22.07.2013               | Petitioner to the Bank   |
| Ext.W11 | 09.12.2013               | Petitioner to ALC to restore   |
| Ext.W12 | 29.11.2014 to 19.03.2015 | Statement of wages paid in Maduravoyal Branch (copies of vouchers not furnished)   |

|         |            |   |
|---------|------------|---|
| Ext.W13 | -          | Copies of some vouchers maintained at Maduravoyal without details on the reverse as to whom paid  |
| Ext.W14 | June 1962  | Extracts of Desai Award (Paras 21.20 23.10 and 23.15 regarding temporary, part-time employee, etc.  |
| Ext.W15 | 10.04.1989 | V Bipartite Settlement w.e.f. 01.11.1987 Para 18 – service conditions part-time employee  |
| Ext.W16 | 27.03.2000 | VII Bipartite Settlement w.e.f. 01.11.1997 Para-20 Part-time employees hospitalization  |
| Ext.W17 | 02.06.2005 | 8th Bipartite Settlement w.e.f. 01.11.2002 Para-21 – wages for part-time employees with less than 6 hours work a week   |
| Ext.W18 | 27.04.2010 | 9th Bipartite Settlement w.e.f. 01.11.2001 Scales of Pay for full-time sub-staff (para 4(b) & min 1/3 wages for part-time employees (para 21) from May 2010. (2nd party circulated this settlement on 29.05.2010) |

**On the Management's side**

| Ex.No. | Date       | Description   |
|--------|------------|---|
| Ext.M1 | 23.12.1993 | Recruitment norms of engaging PTE and Norms for engaging on daily wage basis. |
| Ext.M2 | 24.01.2014 | Memo dated 28.01.2014 circulating the settlement                              |
| Ext.M3 | 24.01.2014 | Regularization of Smt. Nithya as per settlement                               |

नई दिल्ली, 3 फरवरी, 2016

**का. आ. 277.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 49/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/02/2016 को प्राप्त हुआ था।

[ सं. एल-12012/35/2014-आईआर (बी-II) ]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 3rd February, 2016

**S.O. 277.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 03-02-2016.

[No. L-12012/35/2014-IR (B-II)]

RAVI KUMAR, Desk Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—  
CUM-LABOUR COURT, JAIPUR**

BHARAT PANDEY, Presiding Officer

**I.D. 49/2014**

Reference No. L-12012/35/2014-IR(B-II)

dated: 21.7.2014

Smt. Sunita Devi  
W/o Shri Chandermohan  
R/o E-8, Royalty Marg,  
Phase 3, Jhalana Dungri,  
Jaipur

V/s.

Senior Manager  
Punjab National Bank  
Circle Office, 2, Nehru Place,  
Tank Road, Jaipur

**AWARD**

23.11.2015

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“क्या वरिष्ठ प्रबन्धक, पंजाब नेशनल बैंक मण्डल कार्यालय, टॉक रोड, जयपुर का कर्मकार श्रीमती सुनीता देवी पत्नी श्री चन्द्र मोहन, सफाई कर्मचारी को मौखिक आदेश दिनांक 24.1.2014 के द्वारा नौकरी से निकाला जाना न्यायोचित एवं न्यायसंगत है ? यदि नहीं तो कर्मचारी किस अनुतोष पाने का अधिकारी है ?”

2. According to statement of claim the fact of the case in brief is that the applicant Smt. Sunita Devi was engaged as temporary Safai Karamchari at Punjab National Bank Micer Centre Branch, Rajapark, Jaipur w.e.f 1.1.2013. After

engagement on 1.1.2013 she worked at Rajapark branch on different occasions & as per requirement of the bank management she worked in Malviyanagar & Jagatpura branch also. Each of the branches as mentioned above have issued her certificate of service of her working in those branches which has been annexed to the statement of claim as Annexure 1 to 4. Her services were terminated on 24.1.2014 by Senior Manager, Punjab National Bank, Circle Office, Tonk Road, Jaipur.

3. It has been further alleged in para 5 of the statement of claim that the total number of working days for the applicant is 177 whereas many temporary employees whose working days were very much less than the applicant & were junior to her were retained in service & regularised. It has been further alleged that if an employee has been retrenched from the establishment, such retrenched employee should be given preference when the employer had occasion to employ another hand. The bank management has violated section 25-H of Industrial Dispute Act, 1947 because it is mandatory under the provision of section 25-H that a retrenched workman should be given preference by employer while recruiting new workman.

4. In para 7 of the statement of claim it has been stated that the management has violated terms of I.B.P. Settlement because clause 20(8) of I.B.P. Settlement mandates that a temporary workman may also be appointed to fill a permanent vacancy & if such temporary workman is eventually selected for filling of the vacancy, the period of temporary employment by such temporary employee will be taken into consideration as probationary period of new appointment. It has been further alleged that bank management has violated Rule 76 & 77 of Industrial Dispute (Central) Rules, 1957. According to Rule 76 the management was bound to give notice to Regional Labour Commissioner (Central), Assistant Labour Commissioner (Central) & to the workman concerned who is intended to be retrenched from the service. Rule 77 provides that the employer shall prepare a list of all workman in the particular category from which retrenchment is contemplated & arrange according to seniority of their service in that category & ensure posting of a copy of such seniority list on notice board in a conspicuous place in the premises of the establishment.

5. It has been prayed that action of the termination of the services of the applicant be declared illegal & unjustified & the bank management be directed to reinstate the applicant back in service w.e.f 24.1.2014 along with back wages & continuity in service.

6. In reply to statement of claim beside raising preliminary objections & issues, in parawise reply to statement of claim statements made in para 1, 2, 3, 4, 5, 6, 7,

8 & 9 have been denied with contention that they are not admitted as alleged. Further, it has been alleged that applicant Smt. Sunita Devi was neither appointed on the post of sweeper nor she was issued any appointment letter by the bank. She was not appointed by the bank hence, the question of dismissing her from the service does not arise. It has been specifically denied that she was appointed on the post of sweeper on 1.1.2013 at Micer Rajapark branch, Jaipur. She has not filed any document before the tribunal regarding her appointment.

7. In para 2 of the reply to statement of claim it has been admitted that in the event of permanent Safai Karamchari of Micer Rajapark branch, Jaipur proceeding on leave applicant Smt. Sunita Devi was temporarily appointed as casual daily wage employee only for the leave period of permanent safai karamchari & after return of the permanent safai karamchari applicant was not provided any further engagement. In similar fashion as indicated above applicant was provided engagement in Malviyanagar & Jagatpura branch of the opposite party as casual daily wage employee as safai karamchari.

8. In para 3 of the reply to the statement of claim attempt has been made by the opposite party to explain Annexure 1 to 4 attached with the statement of claim which has been claimed to be service certificates issued to the applicant from respective branches. It has been alleged that Annexure 1 to 4 are the statement of working days of the applicant Smt. Sunita Devi as casual daily wage worker which are the period when regular employees working on the post of safai karamchari of the branches have been on leave. It has been further alleged that Annexure 1 to 4 are uncertified photocopies unfit to be accepted in evidence & it is the responsibility of the applicant to prove these documents by producing the original before the tribunal. It has been alleged that the statement of the applicant is untrue & baseless that she was removed from service on 23.1.2014 by manager of the Jagatpura branch, Jaipur as no document has been filed in support of her contention about removal from service.

9. It has been further alleged that opposite party is a nationalised bank where employees are recruited according to Rule & Procedure & after following such rule & procedure eligible candidates are appointed on permanent posts. Contention of the applicant is wrong that management has violated the provisions of section 25-H of Industrial Disputes Act, 1947. The provision of section 25-H of Industrial Disputes Act, 1947 apply only in the event of more than one employee. The applicant was not an appointed daily wage employee or a temporary employee of the respondent. Applicant has also not

clarified in para 7 of statement of claim that clause 20(8) of which Bi-partite Agreement has been violated. It has been further alleged that it is relevant to mention that between management & employees union time to time various settlement have been made which have been termed as Bi-partite Agreement 1 to 9. The applicant was not a permanent employee of the respondent hence, she is not entitled to the benefits contained in these agreements. Management has not violated Rule 76 & 77 of Industrial Dispute (Central) Rules, 1957. Further, it has been prayed that statement of claim be dismissed with cost.

10. In preliminary objections, it has been alleged that it has been held by Hon'ble Supreme Court & different High Courts in their judgements that for creating liability under Industrial Disputes Act, 1947 there is pre-condition that employment must have been made according to rules. It has been further alleged that persons engaged for irregular & casual work are not entitled to the benefits of I.D. Act, 1947 because such back door entries adversely affect the competence & ability of the Industry. Reference has been made to the cases Secretary, State of Karnataka V/s Smt. Uma Devi & State of Himachal Pradesh V/s Suresh Kumar Verma. In matter of appointment of Smt. Sunita Devi preliminary objection has been raised that there is no relation of 'employer' & 'employee' between bank & Smt. Sunita Devi because neither she has been appointed on regular basis nor any appointment letter has been issued to her hence, she cannot be termed as 'workman'. It has been further alleged that as the applicant is not a workman the claim presented before the tribunal is not covered within the meaning of "Industrial Dispute". Further, in the preliminary objection it has been alleged that applicant has wrongly stated to have worked continuously for a period of 177 days. It has been said that according to provision of Industrial Disputes Act applicant is expected to work for a period of one year immediate from the date of termination & during period of one year she is expected to work continuously for a period of 240 days which has not been done by the applicant hence, her statement of claim is *prima facie* fit to be dismissed.

11. After receipt of reference notices were issued to the parties on 31.7.2014 fixing 8.9.2014 for filing statement of claim. Statement of claim was filed by applicant on 15.1.2015 & reply to statement of claim was filed on 18.6.2015. After receiving reply to statement of claim on 10.9.2015 applicant was directed to file rejoinder & documents on 23.11.2015.

12. On 23.11.2015 learned representative of both the parties appeared. Rejoinder & documents were not filed by the applicant. An application was moved on 23.11.2015

by applicant through her learned representative for withdrawal of the case. The application reads as under :-

**Before : The Presiding Officer, CGIT-Cum-Labour Court, Jaipur**

**Case No. CGIT-49/2014**

Smt. Sunita Devi W/o Shri Chander Mohan, R/o E-8, Royalty Marg, Phase-3, Jhalana Doongri, Jaipur

V/s.

Senior Manager, Punjab National Bank, Circle Office, 2- Nehru Place, Tonk Road, Jaipur

MAY IT PLEASE YOUR HONOUR

**Application for withdrawal of the case**

Respectfully, we have to submit that the workman has raised an another demand in relation with in justice towards the discrimination for granting age relaxation in the matter of providing permanent appointment as part - time employees to such ex-temporary employees who have worked in stop gap occasions in different branches of the bank.

2. The bank management violated the provisions of Banking industry BP settlement while not extending preference to the applicant whereas two other candidates who were aged more than 32 years of age (Ravi Kumar aged 32 years and Hemant Kumar aged 36 years) were given regular jobs of P.T.S. w.e.f. 25.3.2011. It amounts unfair labour practice on the part of Bank management and for redressed of this grievance the applicant workman has submitted petition under 25 T of the industrial Dispute Act 1947 before the Regional Labour Commissioner (Central), Jaipur.

**PRAYER**

Since this fact is crystal clear that the subject matter of both the demands are entirely different, as such owing to the more appropriate demand made before the RLC (Central) Jaipur we humbly request to the Hon. Court that the dispute relating to termination of service of the workman w.e.f. 24.1.2014 may kindly be treated as withdrawn.

Humble Applicant

Jaipur

Dated: 23rd Nov. 2015

Signature Legible

(Concerning Workman)

Signature Illegible

Authorized Rep.

NO OBJECTION

Signature Illegible

23.11.2015

Monogram

मानव संसाधान विकास विभाग (डीएसी) (PNB)

मण्डल कार्यालय, जयपुर

Human Resources Development Department (DAC)  
Circle Office, Jaipur

2. Nehru Place, Tonk Road, Jaipur-302015 (Rajasthan)  
Phone 0141-2747107, Tel. Fax 2747109

Ref: COJ/HRD/SRLC

Date : 30.10.2015

Annexure -1

श्रीमान् क्षेत्रीय श्रम आयुक्त (केन्द्रीय)  
केन्द्रीय सदन, खण्ड 'अ',  
तृतीय तल, सैक्टर- 10,  
विद्याधार नगर, जयपुर-23

महोदय,

विषय : Complaint under Section 25 T of the Industrial Disputes Act, 1947.

श्रीमती सुनीता देवी, सफाई कर्मचारी

संदर्भ: जे.पी./ एस.आर.एल.सी. -50(26)/2015)

This has reference to the proceedings held on 28.09.2015 during which the union head field an applicant asking for certain information / document i.e. detail regarding date of birth and appointment letters issued to Sh. Ravi Kumar PTS BO Malviya Nagar, Jaipur and Sh. Hemant Kumar PTS BO Shatri Nagar, Jaipur to be placed on record and your directions to produce the same on next date i.e. 30.10.2015. In this regard it is to state as under.

1. It is confirmed that the date of birth of Sh. Ravi Kumar PTS BO Malviya Nagar, Jaipur and Sh. Hemant Kumar PTS BO Shatri Nagar, Jaipur is 15.07.1980 and 02.03.1975 respectively as per the documents i.e. School Transfer Certificate submitted (copy enclosed).

2. Appointment letters dated 25.03.2011 issued to Sh. Ravi Kumar PTS BO Malviya Nagar, Jaipur and Sh. Hemant Kumar PTS BO Shatri Nagar, Jaipur are enclosed.

However, it is reiterated that Sh. Ravi Kumar had raised an Industrial Dispute for allegedly not-given Part Time Sweeper job in the bank on regular basis whereas it had appointed others who had worked for less number of days than him. The dispute had been referred to CGIT-Cum Labour Court Jaipur for adjudication vide Central Govt. letter dated 28.11.2007(ID 1/2009). Sh. Ravi Kumar had claimed that he had worked temporary basis in leave arrangement for 374 days at various branches for the period from Aug. 1997 to Dec. 2006 which was borne on bank's record. During the proceeding before the Hon'ble Tribunal, the Presiding Officer had advised the bank in Feb. 2011 to consider appointment of Sh. Ravi Kumar and settle the dispute as Sh. Ravi Kumar had started working in the bank in 1997 when he was quite young and had fixed the case for Lok Adalat on 03.03.2011. The bank was kind enough to consider his fresh appointment in the true spirit to settle the matter amicably in the Lok Adalat in deference to the advised of the Hon'ble Presiding Officer. Since there was another applicant namely Sh. Hemant Kumar who had worked on temporary basis in leave arrangement for 533 days at various branches for the period April 1994 to April 1997 which was also borne on bank's record and is both of them were similarly placed, the bank also appointed him as part time sweeper along with Sh. Ravi Kumar so that there is no discrimination.

Stamp PANJAB NATIONAL BANK

In view of the above, your good self will appreciate that both the cases stand than the case of Smt Sunita Devi and bank has been quite fair to consider both these cases in the true spirit of principle of 'Equality' enshrined in the constitution. We are enclosing the award dated 18.03.2011 of the CGIT-Cum Labour Court, Jaipur and the application/representation of Sh. Hemant Kumar along with the details of the number of days worked by him during the period April 1994 to April 1997 so as to enable you to consider the matter in the proper perspective. We again request

you to close the matter as the case of Smt. Sunita Devi (ID 49/2014) is sub-judge before the Hon'ble CGIT-Cum Labour Court, Jaipur.

Signature Illegible /Authorized Representative  
Stamp

PANJAB NATIONAL BANK

Encl. A/A

13. Order was passed after hearing learned representative of both the parties on the application. The order passed after hearing on application of the applicant reads as under:-

23.11.2015

Case called out. Learned representative of both the parties present. File has been fixed today for submission of rejoinder and documents by applicant side. Rejoinder and documents have not been filed today from applicant side.

An application has been moved by applicant for withdrawal of the case. Copy of application has been given to learned counsel for opposite party.

Heard learned representative of both parties on application of the applicant to withdraw the case. "No objection" has been mentioned by learned counsel for opposite party on the application of the applicant.

It has been requested in the application that owing to the more appropriate demand made before the RLC (Central) Jaipur we humbly request to the Hon'ble Court that the dispute relating to termination of service of the workman w.e.f. 24.01.2014 may kindly be treated as withdrawn.

Application of the applicant has been attached with an enclosure marked annexure-1.

In above circumstances the application of the applicant deserves to be allowed as applicant does not intend to continue the claim petition. Application of the applicant is accordingly allowed. The claim petition of the applicant is dismissed as withdrawn.

Application dated 23.11.2015 shall form part of the award.

14. Award as above.

BHARAT PANDEY, Presiding Officer

**शुद्धिपत्र**

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 278.**—भारतीय राजपत्र में प्रकाशित समसंख्यक अधिसूचना दिनांक 08/12/2015 के अंतर्गत केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 1, धनबाद द्वारा पारित पंचाट (संदर्भ सं. 23/2010) दिनांक 23/10/2015 में आशिक संशोधन करते हुए उपरोक्त पंचाट के पृष्ठ सं 1 के पैरा 2 की पर्यायों को निम्नानुसार पढ़ा जा सकता है:

“The case is received from the Ministry of Labour on 08.03.2010. After receipt of the reference, both parties are noticed. The workman files their written statement on 08.04.2010. And the management files their written statement on 16.07.2014. No witness examined from both side.”

[सं. एल-20012/95/2009-आईआर(सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

**CORRIGENDUM**

New Delhi, the 5th February, 2016

**S.O. 278.**—In partial modification of Award Reference No. 23/2010 dated 23.10.2015, pronounced by Central Government Industrial Tribunal No. 1, Dhanbad under Notification of even number dated 08.12.2015, published in the Gazette of India; the lines of Para ?o. 2 of page ?o. 1 in the aforesaid Award may be read as follows :

“The case is received from the Ministry of Labour on 08.03.2010. After receipt of the reference, both parties are noticed. The workman files their written statement on 08.04.2010. And the management files their written statement on 16.07.2014. No witness examined from both side.”

[No. L-20012/95/2009-IR(C-I)]

M. K. SINGH, Section Officer

नई दिल्ली, 2 फरवरी, 2016

**का.आ. 279.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 32/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.02.2016 को प्राप्त हुआ था।

[सं. एल-20012/130/1994-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 2nd February, 2016

**S.O. 279.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central

Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 32/1995) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 02.02.2016.

[No. L-20012/130/1994-IR(C-1)]

M. K. SINGH, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act, 1947

**Reference: No. 32/1995**

Employer in relation to the management of Kustore Area, M/s BCCL

AND

Their workmen

**Present:** Sri R. K. SARAN, Presiding Officer

**Appearances:**

For the Employers :- Shri U. N. Lall, Advocate

For the workman :- None

State : Jharkhand

Industry- Coal

Dated-04/01/2016

**AWARD**

By order No. L-20012/130/1994-IR(C-1)/IR (C-1) dated 29/03/1995, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

**SCHEDULE**

“Whether the action of the management in refusing to correct the date of appointment of Shri Surja Prasad Singh, Sr. Mining Sardar as 01.07.1962 by the management of Kustore Colliery of M/S BCCL is justified? If not, to what relief the workman is entitled and from which date?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently on behalf of the workman. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence, No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer



6. Thereafter the Union and the management settled their Industrial Dispute out side the Court and filed the same before the Hon'ble High Court. The Hon'ble High Court held that the settlement is fair. According to the said settlement the workman was taken back in the Employment in the post in which he was working prior to the dismissal with continuity of service for the purpose of Gratuity.

7. It is also submitted by the management that in the said settlement the concerned workman was agreed that he will not claim any promotion for the period in which he was not working nor he will claim promotion on the ground that the junior persons to him have now been promoted to the higher post during his absence. The entire matter and dispute in respect of the dismissal and promotion of the workman have been settled prior to 1984 which also accepted by the Hon'ble High Court.

8. The promotion of the workman is an administrative function of the management and not the subject matter of the Industrial Disputes. But the management has already considered the case according to the cadre scheme and the workman concerned is not entitled for further promotion as he reached the top of the cadre in which he is working. Hence the demand of the Union is not legal and justified.

9. The workman has claimed for regularisation in the post of chargeman from the period of 24/12/1980. The case of the workman is that he is a competent hand appeared for DPC for the post of chargeman though he successfully cleared the DPC, he was not given the promotion as he as actively involved in trade Union activity.

10. On the other hand, the management submitted that the workman was dismissed, and the matter was taken to High Court and as per a settlement the workman was reinstated. But curiously neither party file the said settlement and order of Hon'ble High Court nor the Award of CGIT No. 2 before this Tribunal. Though the workman admitted in his evidence, regarding dismissal and also admitted in his rejoinder regarding settlement, but not filed the same. It is felt that the workman was hiding the entire fact from this Tribunal. In absence of the said settlement, this Tribunal is not in a position to give any relief to the workman.

11. Considering the fact and circumstances of the case, I hold that the demand of the National Coal Organisation employees to regularising Shri A. K. Banerjee Operator Gr.I in excavation Grade from his date of joining at Kathara Colliery and arrear wages and not promoting him to the post of chargeman w.e.f 24/12/80 was not legal and justified. Hence he is not entitled to get any relief. Claim dismissed.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 2 फरवरी, 2016

**का.आ. 281.—**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 31/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.02.2016 को प्राप्त हुआ था।

[सं. एल-20012/28/2013-आई आर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 2nd February, 2016

**S.O. 281.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 31/2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 02.02.2016.

[No. L-20012/28/2013-IR(CM-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10(1) (d) (2A) of  
I.D.Act, 1947.

#### Ref. No. 31 of 2013

Employer in relation to the management of E.J. Area  
of M/s BCCL.

#### AND

Their workman

**Present :-** Sri R. K. SARAN, Presiding Officer

#### Appearances:

For the Employers :- Sri D. K. Verma, Advocate

For the Workman :- Sri R. R. Ram, Rep

State:- Jharkhand Industry :- Coal

Dated: 05.01.2016

#### AWARD

By Order No.-L-20012/28/2013 IR-(CM-I), dated, 14.08.2013 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial

Disputes Act.1947, referred the following disputes for adjudication to this Tribunal:

### SCHEDULE

“ Whether the action of the management of Bhowra (N) Colliery of M/S BCCL in dismissing Shri Manoj Kumar, from the service of the company vide letter No. 22/26.09.2007 is fair and justified? To what relief is the concerned workman is entitled?”

2. The case is received from the Ministry of Labour on 03.09.2013. After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 26.12.2013. After long delay the management files their written statement -cum-rejoinder on 14.11.2014. Document of management is marked as M-1 to M-14. This is a case of dismissal of workman.

3. Domestic enquiry held by the management is declared as Fair & Proper. The point involved in the reference is that the workman has been dismissed from his services on the ground of long absence.

4. During hearing of argument on merit. it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for 8 years. It is felt to give another chance to the workman to serve.

5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee as cat-I scale. But the workman be kept under probation for a period two year. Therefore the question of giving back wages does not arise at all.

This is my award

R. K. SARAN, Presiding Officer

नई दिल्ली, 2 फरवरी, 2016

**का.आ. 282.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इण्डियन एअरलाइन्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, कोलकता के पंचाट (संदर्भ संख्या 37/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02. 02.2016 को प्राप्त हुआ था।

[सं. एल-11012/08/2014-आई आर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 2nd February, 2016

**S.O. 282.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata (Ref. No. 37/2014) as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of M/s. Indian Airlines and their workmen, which was received by the Central Government on 02.02.2016.

[No. L-11012/08/2014-IR(C-I)]

M. K. SINGH, Section Officer

### ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

#### Reference No. 37 of 2014

**Parties:** Employers in relation to the management of Indian Airlines  
AND  
Their workman

**Present:**

Justice Dipak Saha Ray, Presiding Officer

**Appearance :**

On behalf of the : Mr. R.N. Majumder, Ld. Counsel  
Management with Mr. S. Bhattacherjee,  
Ld. Counsel on behalf of Indian  
Airlines.

None on behalf of M/s. Indus Trans  
Liner Wings.

On behalf of the : N o n e.

Workman

State: West Bengal Industry: Civil Aviation

Dated: 13<sup>th</sup> January, 2016.

### AWARD

By Order No.L-11012/08/2014-IR(CM-I) dated 22.04.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“(I) Whether the action of the Management of M/s. Indus Trans Liner Wings, contractor of Indian Airlines, NSCBI Airport, Kolkata in retrenching 18 no. of workmen is legal and justified? (II) Whether the action of the principalemployer in avoiding liability under various Labour Laws and by not providing alternate job opportunity for contract workmen engaged by the contractor is legal and justified ? To what relief the workmen are entitled?”

2. When the case is taken up today for hearing none appears on behalf of the union, though the management is represented by its Ld. Counsel. It appears from the record that the union did not turn up on the last two dates. Nor did it take any step to proceed with the case.

3. Considering the facts and circumstances, it may be reasonably presumed that the union at whose instance the instant reference has been made, is not interested to proceed with the matter. So, no fruitful purpose will be served in keeping the matter pending.

4. In view of the above, present reference is disposed of by passing a "No Dispute Award".

JUSTICE DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,  
13<sup>th</sup> January, 2016.

नई दिल्ली, 2 फरवरी, 2016

**का.आ. 283.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 82/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.02.2016 को प्राप्त हुआ था।

[सं. एल-20012/42/1992-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 2nd February, 2016

**S.O. 283.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 82/1994) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 02.02.2016.

[No. L-20012/42/1992-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of  
I.D.Act, 1947

**Reference: No. 82/1994**

Employer in relation to the management of Kankanee  
Colliery of M/s BCCL,

AND

Their workmen.

**Present:**

Sri R. K. Saran, Presiding Officer

#### Appearances:

For the Employers :- None

For the workman :- Sri D. Mukherjee, Advocate

State : Jharkhand Industry: Coal

Dated: 06.01.2016

#### AWARD

By order No. L-20012/42/ 1992 /IR (C-1)) dated 21/09/1992, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

#### SCHEDULE

"Whether the action of the management of Kankanee Colliery in terminating the services of shri Rameshwar Ram is justified. If not to what relief the workmen is entitled to?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates, Ld Counsel for the workman submits that workman is not interested. to contest the case. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 284.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भिलाई इस्पात संयंत्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एम श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 25/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.02.2016 को प्राप्त हुआ था।

[सं. एल-29011/39/2002-आई आर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 5th February, 2016

**S.O. 284.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bhilai Steel Plant and their workmen, which was received by the Central Government on 03.02.2016.

[No. L-29011/39/2002-IR(M)]

NAVEEN KAPOOR, Under Secy.

## ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**  
**NO. CGIT/LC/R/25/07**

Shri D. Venkatesh,  
R/o Behind Block No.4,  
II-B, type, South Avenue, Dalli Rajhara,  
Distt. Durg.

The President,  
Metal Mines Workers Union,  
Rajhara Branch,  
Dalli Rajhara,  
Distt. Durg

.....Workman/Union

**Versus**

Managing Director,  
Bhilai Steel Plant,  
Bhilai (Chhattisgarh)

.....Management

**AWARD**

Passed on this 14<sup>th</sup> day of December, 2015

1. As per letter dated 23-3-07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-29011/39/2002-IR(M). The dispute under reference relates to:

“Whether the demand of Shri D. Venkatesh, P/No. 078216, Ex-Sr.Bus Driver, RJM-16 Rajhara Mines of Bhilai Steel Plant ( represented through Metal Mines Workers Union) for reckoning his date of birth as 24-3-46 instead of 2-6-98 and consequently reinstating him in services with full backwages is legal and justified? If yes, to what relief, he is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 6/1 to 6/3. Case of Ist party workman is that he was working as Bus Driver KA78216 of Rajghara Mechanical Mines of BSP. He has been prematurely superannuated by management on 30-6-96 assuming his date of birth 2-6-38. Workman submits that he had submitted attested copy of his date of birth registered in 1967. His date of birth is 23-4-46. Overlooking said date of birth, he has prematurely superannuated. Workman further reiterates that his date of birth is 23-4-46 and not 2-6-38. Workman submits that the age proof certificate by local state official certified for LIC policy. His date of birth was 23-4-46. Mandal Officer had deposed before Durg Civil Court his date of birth was 23-4-46. In CPF Nomination, same date of birth was recorded. In medical service book, his age was shown 48

years, tallies with his date of birth in 1946. On such ground, workman prays for his premature superannuation and prays for his reinstatement with backwages

3. 2<sup>nd</sup> party filed Written Statement at Page 7/1 to 7/5 opposing claim of Ist party workman. 2<sup>nd</sup> party submits that the dispute raised by workman for correction of date of birth is highly belated and not tenable. Workman had filed civil suit No. 6A/97 before Civil Judge Class-2, Durg. Said suit was dismissed on 13-1-1999. Appeal 4A/99 filed by workman was dismissed by 4<sup>th</sup> Additional District Judge n 16-3-01. 2<sup>nd</sup> party submits that the claim of workman is barred by resjudicata. The reference is not tenable. It is further submitted by 2<sup>nd</sup> party that workman was appointed on 3-10-64 as Khalasi and posted at Rajhara Mines of BSP. He declared his date of birth as 2-6-38. He was examined medically. As per medical fitness certificate dated 2-6-73, his age was found 35 years. Management had issued letter dated 15-2-78 notifying seniority list. Date of birth of workman was shown 2-6-38. Workman had not raised objection regarding his date of birth. Workman cannot invoke jurisdiction of this Tribunal for correction of his date of birth. As per management's circular No. 87 dated 2-8-74, the date of birth cannot be changed within last 5 years of service of employee. Workman has been retired on 30-6-96. His claim has become infructuous. 2<sup>nd</sup> party reiterates that the documents of LIC and CPF nomination cannot be said proof of the date of birth. Shri K.A.Raju is not employee or office bearer. He is not competent to raise the dispute. The correction of date of birth at fag end of service cannot be accepted. On such ground, 2<sup>nd</sup> party prays reference be answered in its favour.

4. Workman filed rejoinder at Page 9/1 to 9/4 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

|  |  |
|--|--|
| (i) Whether the claim for correction of his date of birth to 24-3-47 instead of 2-6-38 is barred by resjudicata?                   | In Affirmative                         |
| (ii) Whether workman proves that his date of birth is 24-3-46 and he is illegally superannuated assuming his date of birth 2-6-38? | Does not survive                       |
| (iii) If so, to what relief the workman is entitled to?"   | Workman is not entitled to any relief. |

## REASONS

6. The terms of reference pertains to correction of date of birth of workman to 24-3-46 instead of 2-6-38. The management has produced copies of the judgments in Civil Suit 6/97 at Exhibit M-1. The plaintiff stood for correction of date of birth as claim in the present reference was dismissed. Copy of judgment in appeal is produced at Exhibit M-2. Appeal preferred by workman was dismissed by 4<sup>th</sup> Additional District Judge, Durg.

7. Learned counsel for management Shri A. K. Shashi pointed out my attention to ratio held in Case of Rajasthan SRT Corporation versus Krishna Kaat reported in AIR 1995-SCC-1715. Their Lordship dealing with Section 2-A, 10 of ID Act held dispute between employer and employee, amendment to do away with necessity of reference in cases of industrial disputes covered by Section 2-A of ID Act. Their Lordship under caption(6) of IID Act held the certified standing orders framed under and in accordance with the Industrial Employment (Standing Orders) Act are statutorily imposed conditions of service and are binding both upon the employer ad employees though they do not amount to statutory provisions. Any violation of these standing orders entitles an employee to appropriate relief either before the forums created by the Industrial Dispute Act or the Civil Court where recourse to Civil Court is open according to the principles indicated above.

When 1<sup>st</sup> party workman filed civil suit for correction of date of birth which is also subject matter of dispute under reference as per Section 11, CPC, dispute was decided by Competent Civil Court and appeal has also been dismissed. The claim of 1<sup>st</sup> party workman for the same relief for correction of his date of birth is barred by res judicata. For above reasons, I record my finding in Point No.1 in Affirmative.

8. Point No.2- In view of my finding in Point No.1 claim of workman for correction of his date of birth is barred by res judicata, documents produced on record Exhibit W-2 is copy of the decision of Revenue Officer in Civil Suit.

9. Management produced certificate Exhibit M-4 on 2-6-73, when 1<sup>st</sup> party was examined, his age was found 35 years, Exhibit M-5 is certificate dated 15-2-78. M-6 is Instruction issued by management dated 2-8-74. Clause V of said circular provides no change in date of birth would be allowed if such request are received during last 5 years of service of employee for any reason not so ever.

10. Workman filed affidavit of his evidence. However in his cross-examination workman says that the affidavit is prepared by his Advocate. He does not know about its contents. Therefore evidence of workman cannot establish his claim.

11. Management filed affidavit of witness Rohit Kumar supporting contentions of management in Written Statement. From his evidence, documents Exhibit M-1 to M-6 are admitted. Workman remained absent and failed to cross-examine management's witness therefore I find no reason to disbelieve evidence of management's witness.

12. Learned counsel for management Shri A.K. Shashi relies on ratio held in State of Haryana versus Satish Kumar Mittal reported in 2011(1)MLPJ-302. Their Lordship held the application for correction of date of birth in service record must be made within time provided in the rules. If the time limit is not prescribed then within reasonable time.

Shri A.K. Shashi relies on ratio held in Civil Appeal No. 8634/2013 & Writ Appeal No. 336/2014. The detailed discussion of the above referred cases are not necessary.

In present case, after his superannuation, workman filed civil suit which was dismissed. The present dispute is raised after long 11 years. The claim of workman is not substantiated by evidence rather claim is barred by res judicata in view of Judgment in civil suit and appeal. Therefore I record my finding in Point No.2 in Negative.

13. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

14. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 285.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भिलाई इस्पात संयंत्र ऑफ सेल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण एम श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 23/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.02.2016 को प्राप्त हुआ था।

[सं. एल-26011/3/2009-आई आर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 5th February, 2016

**S.O.285.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2010) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of M/s. Bhilai Steel Plant of SAIL and their workmen, which was received by the Central Government on 03.02.2016.

[No. L-26011/3/2009-IR(M)]

NAVEEN KAPOOR, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/23/2010

The President,  
Metal Mines Workers Union (INTUC),  
Dallirajhara, Durg (CG) ....Workman/Union

Versus

Executive Director(Mines),  
Bhilai Steel Plant of SAIL,  
Bhilai, Distt. Durg ....Management

#### AWARD

Passed on this 18<sup>th</sup> day of December 2015

1. As per letter dated 15-2-10 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No.L- 26011/3/09-IR(M). The dispute under reference relates to:

“Whether the demands of Metal Mines Workers Union (INTUC) Dallirajhara to regularize/ departmentalize seven contractual workers namely S/Shri Rohi Das, Nandu Ram, Fagu Ram, Sampat, Samaru Ram, Makhan and Krishna Ram w.e.f. 31-5-96 by the management of Bhilai Steel Plant as DPR is justified? To what relief they are entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party Union failed to appear in the reference proceeding despite of notices repeatedly issued. Ist party is proceeded ex parte on 11-2-2015.

3. 2<sup>nd</sup> party filed ex parte Written Statement. Case of 2<sup>nd</sup> party is that Ist party Union has failed to file statement of claim. Ex parte Written Statement is filed by management. Bhilai Steel Plant has its captive mine collectively known as Iron Ore Complex Dalli Rajhara. The casual nature of work are awarded to several contractors deploying local labours. Prior to 1995, Chhattisgarh Mines Shramik Sangh had raised demand for departmentalization of contract

workers. The memorandum of settlement was arrived before ALC, Raipur on 14-11-95. As per terms of settlement only those workers whose age was below 50 years as on 1-11-95 and found medically fit were to be departmentalized through the process of selection. Such selected contractual employees were issued appointment order as DPR by March 1996. On 19-5-96, it was agreed that temporary appointed DPR on adhoc basis subject to their final selection for appointment as DPR in Bhilai Steel Plant as unskilled, skilled category. Subsequently record of note of discussion was held between management of Bhilai Steel Plant on 24-7-97. CMS Union had taken up issue of 188 persons earlier working as labours with their respective contractors. Such employees were allowed to be engaged by various contractor's society etc. The record of note of discussion dated 24-7-97 as well as list of 188 contract labours is filed. The names of claimant Nandu Ram appeared at Sl.No.13, Samaru ram appeared at Sl.No.14, Makhan at Sl.No.23, Krishna at Sl.No.15. the benefits of settlement dated 14-11-95 cannot be extended to them as the dispute is raised after 15 years.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

|   |   |
|---|---|
| (i) Whether the demands of Metal Mines Workers Union (INTUC) Dallirajhara to regularize/ departmentalize seven contractual workers namely S/Shri Rohi Das, Nandu Ram, Fagu Ram, Sampat, Samaru Ram, Makhan and Krishna Ram w.e.f. 31-5-96 by the management of Bhilai Steel Plant as DPR is justified ? | In Negative                             |
| (ii) If not, what relief the workman is entitled to?”   | Workmen are not entitled to any relief. |

#### REASONS

5. Though the Union has raised demand for departmentalization/ regularization of above named 7 contract employees, Union has not participated in reference. No statement of claim is filed. Management submitted Written Statement details given above. Affidavit of evidence is filed by management's witness supporting contentions in Written Statement. Union failed to cross-examine witness of management, his evidence remained unchallenged. I find no reason to disbelieve his evidence. Documents are produced at Exhibit M-1 settlement dated 14-11-95. As Union has failed to participate in reference proceeding, the demand of Union is not supported by any evidence. Therefore I record my finding in Point No.1 in Negative.

## 6. In the result, award is passed as under:-

(1) The demands of Metal Mines Workers Union (INTUC) Dallirajhara to regularize/ departmentalize seven contractual workers namely S/Shri Rohi Das, Nandu Ram, Fagu Ram, Sampat, Samaru Ram, Makhan and Krishna Ram w.e.f. 31-5-96 by the management of Bhilai Steel Plant as DPR is not proper.

(2) Workmen are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 286.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एम. पी. स्टेट माइनिंग कापोरेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 223/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.02.2016 को प्राप्त हुआ था।

[सं. एल-29012/49/1992-आई आर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 5th February, 2016

**S.O. 286.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 223/1993) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. M.P. State Mining Corporation and their workmen, which was received by the Central Government on 03.02.2016.

[No. L-29012/49/1992-IR(M)]

NAVEEN KAPOOR, Under Secy.

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/223/93**

General Secretary,  
MP Khadan Swatantra Mazdoor  
Sangathan,  
PO Baradwar,  
Distt. Bilaspur (MP)

....Workman/Union

**Versus**

General Manager (Mines),  
M.P.State Mining Corporation,  
PO Baradwar,  
Distt. Bilaspur

....Management

**AWARD**

Passed on this 18<sup>th</sup> day of December 2015

1. As per letter dated 21-10-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-29012/49/92-IR(Misc). The dispute under reference relates to:

“Whether the claim of M.P.Khadan Swatantra Mazdoor Sangathan, Baraduar that Shri Ram Kumar Pandey is entitled to the scale of 800-15-1010-20-1150-25-1200 is justified? If so, what relief is Shri Pandey entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 3/1 to 3/2. Case of 1st party workman is that he was appointed as office helper in Pay Scale of Rs. 380-5-425-10-495 on 28-7-84. The pay scales of employees in State Mining Corporation were changed time to time. The 1st party workman said that he was not given benefit of appropriate pay scale. He was denied pay scale Rs. 800-15-1010-20-1150-25-1200. He was allowed pay scale of Rs. 725-10-735-10-855-15-900. He claims to be entitled to the revised pay scale of office helper. He suffered loss of Rs. 30,000/- On such ground, workman prays for enhanced pay scale stated above.

3. 2<sup>nd</sup> party filed Written Statement at Page 6/2 to 6/3 opposing claim of workman. The appointment of workman as office helper is not denied. 2<sup>nd</sup> party denies change of pay scale of the office helper as pleaded by the workman. loss of Rs.30,000 claimed by workman is denied. In Additional pleadings, 2<sup>nd</sup> party submits that pay scale of Office Assistant Grade-I is Rs. 800-1200, pay scale of Office Assistant Grade II was Rs. 725-900. Considering education and other aspects, pay scale of workman was fixed 725-900. Workman was not found suitable for pay scale of Rs. 800-1200 2<sup>nd</sup> party submits that workman is not entitled to any relief.

4. Workman submitted rejoinder at Page 9/1 to 9/3 reiterating his contentions in statement of claim and submits that he suffered loss of Rs.60,000 on account of denial of the pay scale Rs. 800-1200. He further submits that he passed 10<sup>th</sup> standard and certificate examination of mining mate. Shri Setram Deharia is drawing scale of Rs. 950/- Workman was appointed on 26-12-76. He was regularised on 1-8-84. Junior employees regularised on 7-10-89 were allowed pay scale Rs. 950.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the claim of M.P. Khadan Swatantra Mazdoor Sangathan, Baraduar that Shri Ram Kumar Pandey is entitled to the scale of 800-15-1010-20-1150-25-1200 is justified?

(ii) If not, what relief the workman is entitled to?"

Ist party workman failed to prosecute the reference, dispute could not be decided on merit.  
.

Workman is not entitled to any relief.

### REASONS

6. Workman raised dispute claiming pay scale Rs.800-1200. The claim of workman is opposed by management. The perusal of record shows letter from workman was received on 29-12-06 that he was not prosecuting his claim under reference after bifurcation of the mining corporation. He was assured of the appropriate pay scale. Workman did not adduce evidence. His evidence was closed on 10-12-2015. Management also not adduced evidence. For non-prosecution of reference, the dispute under reference could not be decided on merit. Accordingly I record my finding in Point No.1.

7. In the result, award is passed as under:-

(1) The claim of M.P.Khadan Swatantra Mazdoor Sangathan, Baraduar that Shri Ram Kumar Pandey is entitled to the scale of 800-15-1010-20-1150-25-1200 is not legal and proper. Workman is not entitled to any relief.

(2) No dispute award is passed.

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 287.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इंडियन ऑयल कापोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 13/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03.02.2016 को प्राप्त हुआ था।

[सं. एल-30011/7/2013-आई आर (एम)]

नवीन कपूर, अवर सचिव

New Delhi, the 5th February, 2016

**S.O. 287.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2013) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of M/s. Indian Oil Corporation Ltd. and their workmen, which was received by the Central Government on 03.02.2016.

[No. L-30011/7/2013-IR(M)]

NAVEEN KAPOOR, Under Secy.

### ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,  
PRESIDING OFFICER, CENTRAL GOVT.  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,  
CHANDIGARH**

Case No. ID No.13 of 2013, Reference No. L-30011/7/2013-IR(M) dated 03.04.2013.

The General Secretary, Indian Oil Corporation Refinery Employees Union, IOCL Panipat Refinery, PO-Panipat Refinery, Beholi, Panipat-132140.

... Union.

### Versus

The Executive Director (Incharge), IOCL, Panipat Refinery, Panipat-132140.

....Respondent.

### Appearances

For the Workman : Shri Hari Pal Singh.

For the Management : Shri P. Murlidharan.

### Award Passed on:- 28.01.2016

Government of India Ministry of Labour vide notification No. L-30011/7/2013-IR(M) dated 03.04.2013 has referred the following dispute to this Tribunal for adjudication:

“Whether the demand of the IPREU for a separate settlement/agreement with respect to the modalities of the movement/promotion of workmen to Grade-IX in Panipat Refinery, is legal and justified? What relief the concerned workmen are entitled to?”

2. Today the case is fixed for settlement. Shri Hari Pal Singh Jethuri, General Secretary of the Union made a statement that he has been authorised by the Union to withdraw the present reference and the same may be returned as withdrawn. The representative of the management has no objection to the withdrawal of the reference.

3. In view of the above, the present reference is returned to the Central Govt. as withdrawn. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.  
28.01.2016

S. P. SINGH, Presiding Officer

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 288.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीग्राफ ऑफिस, बिलासपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. सी जी आई टी/एल सी/आर 04/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.02.2016 को प्राप्त हुआ था।

[सं. एल-40012/161/92-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 5th February, 2016

**S.O. 288.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/04/94) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of the Department of Telegraph Office, Bilaspur and their workman, which was received by the Central Government on 02-02-2016.

[No. L-40012/161/92-IR(DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/4/94

Shri Prakash Das Manikpuri,  
S/o Shri Ramdeo Manikpuri,  
Q.No.2/2, D.T.O. Colony,  
PO Bilaspur. ....Workman

#### Versus

Assistant Superintendent,  
Telegraph Traffic,  
Departmental Telegraph Office,  
Bilaspur ....Management

#### AWARD

Passed on this 18<sup>th</sup> day of December 2015

1. As per letter dated 10-1-94 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40012/161/92-IR(DU). The dispute under reference relates to:

“Whether the action of the management of Asstt. Supdt., Telegraph Traffic, DTO, Bilaspur in retrenching Shri Prakash Das Manikpuri S/o Shri Ram

Das Manikpuri w.e.f. Feb 1992 is legal and justified? If not, what relief the workman concerned is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 2/1 to 2/3. Case of Ist party workman is that he was appointed as Telegraph man at Telegraph office Bilaspur under 2<sup>nd</sup> party as per order dated 27-4-88. He was continuously working till 7-2-89. He was directed to work under Telegraph master DTO Korba, he reported to duty at K orba Telegraph Office on 7-2-89. Thereafter he was directed back to DTO, Bilaspur as per order dated 7-7-89. The workman reported to duty in DTO Bilaspur and continued to work in said office. As per Ist party, he was working for 187 days in 1988, 325 days in 1989, 271 days in 1990, 254 days in 1991 and 24 days in 1992. That his retrenchment in February 1992 is in violation of Section 25-F of ID Act. He approached Non-applicants for employment but there was no response from them. On such ground, workman prays for his reinstatement with backwages.

3. 2<sup>nd</sup> party filed Written Statement at Page 6/1 to 6/3 opposing claim of workman. 2<sup>nd</sup> party is that it was approved that workman be employed as casual labour, he could be given work of Telephone man in case of absence of original telegraph man or delivery man if such work was available. Workman was to be paid daily wages at rate Rs.28.25 per day. That it is not possible to engage anyone as casual labour after specific instructions of Chief General Manager, Telecom, Bhopal. That workman was discontinued as per directions of CGMT, Bhopal dated 12-1-1990 as the official was engaged temporarily on absenteeism and increase of work. One month's wages in lieu of notice was not given. Retrenchment compensation was also not given to the workman. Working days of workman are shown 138 days in 1988, 86 days in 1989, 200 days in 1990, 168 days in 1992. It is reiterated that as per the instructions of CGMT Bhopal dated 12-1-90, workman was discontinued. Workman is not entitled for retrenchment compensation or reinstatement in service. 2<sup>nd</sup> party submits that there was no question of violation of Section 25-F of ID Act.

4. Workman filed rejoinder at Page 9/1 to 9/3 reiterating his contentions in statement of claim. He claims ignorance of instruction dated 12-1-90 of CGMT Bhopal. He was terminated without notice, compensation was not paid to him.

5. As per rejoinder, workman submits that he worked for 187 days in 1988, 325 days in 1989, 271 days in 1990, 254 days in 1991 and 24 days in 1992.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

|  |                     |
|--|---------------------|
| (i) Whether the action of the management of Asstt. Supdt., Telegraph Traffic, DTO, Bilaspur in retrenching Shri Prakash Das Manikpuri S/o Shri Ram Das Manikpuri w.e.f. Feb 1992 is legal and justified? | In Negative         |
| (ii) If not, what relief the workman is entitled to?"  | As per final order. |

### REASONS

7. Ist party workman is challenging termination of his service for violation of Section 25-F of ID Act. In support of his claim, workman filed affidavit of his evidence stating that he was continuously working in DTO from 27-6-88 to 7-2-89. He was directed to work under telegraph master incharge DTO, Korba. As per letter dated 7-2-89, he was also directed to report at DTO office Bilaspur as per order dated 7-9-89. In compliance of said order, he reported to duty at DTO, Bilaspur and worked in said office from 27-4-88 to February 1992 without any break. Without any reasons, he was stopped from work. He has given details of his working days as narrated in his statement of claim. In his cross-examination, Ist party workman says his name was sponsored through Employment Exchange, he was interviewed, he has not studied in English. He denies that he was engaged for casual work. He denies that after appointment of permanent employee, he was discontinued. In his cross-examination, his evidence on the point about his working days is not challenged. Ist party workman has produced documents Exhibit W-7 letter dated 11-11-91, workman was directed to submit his claim as casual employee. Exhibit W-8 period of working of workman is shown from June 88 to January 1992. Exhibit W-9 workman was directed to produce documents. Exhibit W-10 letter dated 3-2-09 refers to the bills from 17-6-88 to 11-11-99. Exhibit W-11 shows that workman was engaged as casual labour to work as Telegraph man etc. in absenteeism or increase in delivery work Exhibit W-12 letter dated 27-6-88 workman was engaged as casual labour as telegraphman at absenteeism/ increase of delivery work. He was directed to report to office alongwith character certificate, educational certificate etc. Exhibit W-13 letter dated 7-2-89 workman was directed to report at Korba Telegraph office. Exhibit W-14 letter dated 7-9-88 workman was directed to report to ASTT Incharge, DTO, Bilaspur. Exhibit W-15 working days of workman are shown 187 days in 1988, 325 days in 1989, 271 days in 1990, 291 days in 1991, 24 days in 1992. The evidence of workman is corroborated by those documents.

8. Management filed affidavit of evidence of Shri A.K. Minz. Management's witness says that management cannot engage any casual labour in view of letter dated 12-1-90 by Chief General Manager, Telecom. Workman

was not engaged on regular basis, he not completed 240 days. Management's witness in his cross-examination says he was not in service in BSNL during 1988 to 1992. The appointment of Ist party workman was not approved. He readover Written Statement filed by management. Order dated 27-6-88 was issued by department, it is marked Exhibit W-1. Letter Exhibit W-2 dated 7-2-89 was issued by the department. Letter Exhibit W-3 was issued by department, list of casual labours is shown in it. The list is marked Exhibit W-4. The evidence of Ist party is also corroborated from evidence in cross-examination of management's witness.

9. Management filed affidavit of witness Shri Sibanus Xalso. However the witness remained absent for cross-examination, his evidence cannot be considered. From evidence of workman corroborated by documents, it is proved that workman was continuously working from June 88 to Feb-92. His services were terminated without notice. Though workman had completed 240 days continuous service during each of the year, he was not paid retrenchment compensation, termination of workman is in violation of Section 25-F of ID Act therefore I record my finding in Point No.1 in Negative.

10. Point No.2- In view of my finding in Point No.1 termination of workman is illegal for violation of Section 25-F of ID Act, question remains for consideration whether workman is entitled for reinstatement with backwages. The documents on record shows that Ist party workman was engaged as casual telegraphman, no evidence is adduced on record about vacant post in office of 2<sup>nd</sup> party therefore reinstatement with backwages would not be justified.

11. Learned counsel for Ist party Shri A.K. Shashi during course of argument submits that considering the facts workman be reinstated without backwages. However those submissions cannot be accepted as no evidence is produced about vacancies. Considering termination of Ist party is in violation of Section 25-F, compensation Rs. One Lakh would be appropriate. Accordingly I record my finding in Point No. 2.

12. In the result, award is passed as under:-

(1) The action of the management of Asstt. Supdt., Telegraph Traffic, DTO, Bilaspur in retrenching Shri Prakash Das Manikpuri S/o Shri Ram Das Manikpuri w.e.f. Feb 1992 is not proper and legal.

(2) 2<sup>nd</sup> party is directed to pay compensation Rs. One Lakh to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 289.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंट ऑफ टेलीकम्यूनिकेशन, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. सीजीआईटी/एलसी/आर/149/00) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.02.2016 को प्राप्त हुआ था।

[सं. एल-40012/247/2000-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 5th February, 2016

**S.O. 289.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/149/00) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of the Department of Telecommunication, Bhopal and their workman, which was received by the Central Government on 02-02-2016.

[No. L-40012/247/2000-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/149/00

Shri Afzal Sheikh,  
S/o Sheikh Shafi Ahmed,  
R/o Mohalla Magria,  
Nr. Moti Masjid Nr. H/O Jabbar Bhai Thanedar,  
Shajapur Distt. MP ....Workman

Versus

Chief General Manager,  
Dept. of Telecommunication,  
Hoshangabad Road,  
MP Circle,  
Bhopal (MP)  
Telecom District Engineer,  
Shajapur Distt. MP ....Management

#### AWARD

Passed on this 17<sup>th</sup> day of December, 2015

1. As per letter dated 29-8-2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under

Section -10 of I.D.Act, 1947 as per Notification No.L-40012/247/2000/IR(DU). The dispute under reference relates to:

“Whether the action of the management of Chief General Manager/ TDE, Telecom, Bhopal in terminating the services of Shri Afzal Sheikh S/o Sheikh Shafi Ahmed w.e.f. 4/6/96 is justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 2/1. Case of 1st party workman is that he was continuously working more than 240 days prior to termination of his service. He is covered as employee under Section 25 B of ID Act. His services are terminated in violation of section 25-F,G,N of ID Act. He prays for his reinstatement with backwages.

3. 2<sup>nd</sup> party filed Written Statement at Page 7/1 to 7/2 opposing claim of workman. 2<sup>nd</sup> party denied engagement of workman. It is also denied that workman completed more than 240 days continuous service. Violation of Section 25-F,G, N is denied.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

|  |  |
|--|--|
| (i) Whether the action of the management of Chief General Manager/TDE, Telecom, Bhopal in terminating the services of Shri Afzal Sheikh S/o Sheikh Shafi Ahmed w.e.f. 4/6/96 is justified? | In Affirmative                         |
| (ii) If not, what relief the workman is entitled to?”  | Workman is not entitled to any relief. |

#### REASONS

5. Workman is challenging termination of his service for violation of Section 25-F,G,N of ID Act the contentions of workman are denied. Workman failed to participate in reference proceeding. His evidence is closed on 1-8-2013. Management filed affidavit of evidence of witness Shri J.K.Jethwani supporting contentions in Written Statement. In his cross-examination, his evidence is not shattered. As workman failed to adduce evidence in support of his claim, issue is answered in Affirmative.

6. In the result, award is passed as under:-

(1) The action of the management of Chief General Manager/ TDE, Telecom, Bhopal in terminating the services of Shri Afzal Sheikh S/o Sheikh Shafi Ahmed w.e.f. 4/6/96 is proper and legal.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 290.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. सीजीआईटी/एलसी/आर/61/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.02.2016 को प्राप्त हुआ था।

[सं. एल-40011/01/91-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 5th February, 2016

**S.O. 290.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/61/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the management of the Bharat Sanchar Nigam Limited, Bhopal and their workman, which was received by the Central Government on 02-02-2016.

[No. L-40011/01/91-IR (DU)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/61/96

Shri Sohan Lal Tantoy  
Through Shri M.P.Singh,  
Sanyukta Parimandal Sachiv,  
National Union of Telegraph  
Engineering Employees,  
Telegraph staff and workcharge,  
Satna .....Workman

#### Versus

Chief General Manager,  
BSNL, Bhopal. .... Management

#### AWARD

Passed on this 18<sup>th</sup> day of December, 2015

1. As per letter dated 29-9-94 and corrigendum dated 28-2-96 received by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-40011/1/91/IR(DU). The dispute under reference relates to:

“Whether the action of the management of Telecom District Engineer, Satna (MP) in terminating the

services of ShriBhagwat Prasad Pandey and Shri Sohanlal Jantoy is legal and justified? If not, to what relief the workmen concerned are entitled?”

2. After receiving reference and corrigendum, notices were issued to the parties. Ist party workman submitted statement of claim at Page3/1 to 3/3 & 8/1 to 8/7. Case of Ist party workman is that workman Sohanlal was engaged as casual labour at SDO(T) Satna since 1983. He worked for 182 days in 1983-84, 32 days in 1984-85, 90 days in 85-86, 332 days in 86-87, 267 days in 87-88, 310 days in 88-89, 294 days in 89-90, 107 days in 1990. Workman Bhagwat Prasad Pandey was engaged in 1994. He worked for 81 days in 1987-88, 358 days in 88-89, 365 days in 89-90, 41 days in 1990. Shri Sohanlal worked for total 1614 days, Bhagwat Prasad worked for 1428 days. That both the workmen have completed more than 240 days in a calendar year. Their services were terminated on the ground for their absence without leave. No chargesheet was issued to them. Enquiry was not conducted against them. Their termination amounts to retrenchment in violation of Section 25-F of ID Act. Their termination is illegal. It is further alleged that the termination of those workmen is arbitrary and just. Junior casual employees are retained in service. That Apex court had issued direction to formulate scheme for regularisation of casual employees completing more than 600 working days. That workmen are entitled for regularisation as per the regularisation scheme.

3. Ist party further submits that department has issued circulars that no casual labours would be employed after 1985. Casual labours on roll on 31-3-85 be given benefit of regularisation. That the workmen were on rolls on 31-3-85, they were entitled to regularisation as per the scheme. They are illegally terminated. On such ground, Ist party workmen prays for their reinstatement with backwages.

4. 2<sup>nd</sup> party has not filed Written Statement in the case. The application for calling back ex parte order dated 25-3-98 was rejected as per order dated 2-7-2013.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Telecom District Engineer, Satna (MP) in terminating the services of Shri Bhagwat Prasad Pandey and Shri Sohanlal Tatway is legal and justified?

In Negative

(ii) If not, what relief the workman is entitled to?”

As per final order.

## REASONS

6. Workman Bhagwat Prasad filed affidavit of his evidence supporting his contentions that he worked for 81 days in 1984-85, nil in 85-86, 218 days in 86-87, 365 days in 87-88, 388 days in 88-89, 365 days in 89-90, 30 + 11 days in 1990 – total 1428 days. In his cross-examination, he says that he was digging ditches for laying telephone line. He denies that after completion of work, he used to be discontinued. That the work he was doing still continues. He did not work in the office. His evidence about working days is not challenged in his cross-examination.

7. Workman Sohanlal also filed affidavit of his evidence supporting his contentions in statement of claim. In his affidavit of evidence, he has given details of his working days 182 days in 1983-84, 32 days in 1984-85, 90 days in 85-86, 332 days in 86-87, 267 days in 87-88, 310 days in 88-89, 294 days in 89-90, 107 days in 1990. That their services were terminated without notice, no chargesheet was issued to him, any enquiry was not conducted against them for their absence from duty.

8. Management's witness shri S.L.Ladia filed affidavit of his evidence. The working days of Sohanlal are shown in para-3 of his affidavit of evidence as stated by both workmen Bhagwat Prasad and Sohanlal in his affidavit of evidence. The reasons for termination are shown absence from duty. The affidavit of management's witness is silent about enquiry conducted against workman. Management's witness in his cross-examination says he was not posted at Satna. Both workmen did not work under him. Any of the documents about their service are not written by him. That for termination of casual workmen, it is not necessary to conduct enquiry. Therefore no enquiry was conducted against both workmen. I may mention here that when no written Statement is filed by management, management has no right to adduce evidence. Evidence of management's witness is without pleadings. As stated above, the application for setting aside ex parte order dated 25-3-98 has already been rejected for the unreasonable delay. 2<sup>nd</sup> party has produced documents Exhibit M-1 Sohanlal was terminated as he was absent from duty. During the period 13-6-84 to 30-6-85, 1-7-85 to 31-12-85. Exhibit M-2 shows that Shri Sohanlal was paid retrenchment compensation and one month's wages in lieu of notice total amount Rs. 3435/- exhibit M-3 shows Bhagwat Prasad Pandey was paid retrenchment compensation and wages in lieu of one month's notice Rs. 2940/- Exhibit M-4,5,6 are application submitted by both workmen to ALC w.r.t. their grievances. From evidence of management's witness Shri D.S.Thakur, documents Exhibit M-1 to M-6 are admitted in evidence. The documents shows that workmen were paid retrenchment compensation and one month's wages in lieu of notice.

9. Evidence on record does not show that the seniority list of casual labours was displayed as per rule 77 of ID Act. The reasons for termination are not mentioned in the documents produced by the management. The termination of both workmen is in violation of section 25-F of ID Act as reasons for termination are not shown. The permission of Government was not taken. The violation of section 25-G, Rule 77 as seniority list was not displayed. For above reasons, I record my finding in Point No.1 in Negative.

10. Point No.2- during course of argument, learned counsel for workmen Shri A.K.shashi submits that workmen be reinstated with backwages. In their pleadings and evidence, both workmen have claimed that they were denied benefit of regularisation as per the scheme introduced as per directions of Hon'ble Supreme court. The copy of scheme is produced on record. The eligibility is provided in para-2 of the scheme full time casual labours who have put in service atleast 240 days in a year prior to 31-3-87 are entitled for the benefit of scheme. The copy of circular dated 19-2-88 is also produced on record. Its para-2 provides for absorption of casual labours who have been continuously working for more than 1 year in the department. The terms of reference does not pertain to denial of regularisation to both the workers. The terms of reference are restricted to the legality of termination of workmen only. Therefore the claim of 1<sup>st</sup> party workmen for benefit of the scheme for regularisation of casual labours could not be considered as it is beyond the terms of reference. The copies of award in R/80/01, 90/93 are submitted by shri A.K.shashi. in both the awards, there was cogent evidence about workman completed 240 days prior to cut off date. As the claim for regularisation is beyond the terms of reference, it cannot be considered. However the termination of workmen is illegal for violation of Section 25-F,G, Rule-77.

11. Shri M.P.Kapoor, counsel for management relies on ratio held in

“Case of Harinandan Prasad and another versus management of FCI reported in 2014-II-LLJ-54(SC). Their Lordship held when relief of monetary compensation in lieu of reinstatement would be more appropriate in case of 1<sup>st</sup> appellant, non-regularisation of 2<sup>nd</sup> appellant while giving benefit of that circular to other similar situated employees and regularizing them would be discriminatory. The relief of reinstatement would not be appropriate.

Considering the period of working, compensation Rs.1,50,000/- to each of the workmen would be appropriate. Accordingly I record my finding in Point No.2.

12. In the result, award is passed as under:-

(1) The action of the management of Telecom District Engineer, Satna (MP) in terminating the services

of Shri Bhagwat Prasad Pandey and Shri Sohanlal Tatway is not proper and legal.

(2) 2<sup>nd</sup> party is directed to pay compensation Rs.1,50,000/- to each workmen.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer  
नई दिल्ली, 5 फरवरी, 2016

**का.आ. 291.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत सरकार निगम लिमिटेड, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. सी जी आई टी/एल सी/आर 88/11) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.02.2016 को प्राप्त हुआ था।

[सं. एल-42012/71/2011-आई आर (डीयू)]  
पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 5th February, 2016

**S.O. 291.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/88/11) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employees in relation management of the M/s. Trust Worthy Security Services, Bopal and their workman, which was received by the Central Government on 02-02-2016.

[No. L-42012/71/2011-IR(DU)]  
P. K. VENUGOPAL, Desk Officer  
**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/88/11**

**Presiding Officer : SHRI R.B.PATLE**

Shri R.K. Vishwakarma, Security Guard  
R/o Near Kamal Aata Chakki, Nayagaon,  
Nai Katni, Tehsil and Distt. Katni,  
Katni (MP) ....Workman

**Versus**

Director,  
M/s Trust Worthy Security Services,  
B-76, Security Tower, Kasturba Nagar,  
Near Chetak Pul,  
Bhopal (MP) ....Management

**AWARD**

Passed on this 11<sup>th</sup> day of December 2015

1. As per letter dated 23-3-2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/71/2011-IR(DU). The dispute under reference relates to:

“ Whether the action of the management of Director, M/s. Trust Worthy Security Services, Kasturba Nagar, Bhopal in terminating the services of Shri R.K. Vishwakarma w.e.f. 19-9-2010 is legal and justified? What relief the workman is entitled ?

2. Ist party workman is challenging his termination in the dispute under reference. Even after issuing notices, the workman did not participate in the proceeding, no statement of claim is filed. Ist party is proceeded ex parte on 19-3-2014.

3. IIInd party management also not filed Written Statement. From conduct of the parties, it is clear that the parties are not pursuing or participating in the dispute.

4. In the result, award is passed as under:-

“ Reference is disposed off as No Dispute Award.”

R. B. PATLE, Presiding Officer

नई दिल्ली, 5 फरवरी, 2016

**का.आ. 292.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पी जी ई एम आर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एम श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 68/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.02.2016 को प्राप्त हुआ था।

[सं. एल-42012/41/2006-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 5th February, 2016

**S.O. 292.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/2006) of the Central Government Industrial Tribunal-cum-Labour Court-1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of PGIMR, Chandigarh and their workmen, which was received by the Central Government on 02.02.2016.

[No. L-42012/41/2006-IR(DU)]

P. K. VENUGOPAL, Desk Officer

### ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,  
PRESIDING OFFICER, CENTRAL GOVT.  
INDUSTRIAL TRIBUNAL- CUM-LABOUR  
COURT-I, CHANDIGARH.**

Case No. ID No.68 of 2006, Reference no. L-42012/ 41/ 2006/IR(DU) dated 23.10.2006

Sh. Narayan Sharma C/o Shri Bishnu Dev Sharma, R/o H.No. 2082, Pipliwal Town, Manimajra, Chandigarh

...Workman

**Versus**

The Director, PGI, Chandigarh.

...Respondent.

**Appearances**

For the Workman: Sh.Rupesh Kumar Advocate

For the Management: Shri N.K. Zakhmi Advocate.

Award Passed on: - 27-01-2016

Government of India Ministry of Labour vide notification No. L- 42012/41/2006/IR(DU)dated 23.10.2006 has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of PGIMR, Chandigarh, in terminating the service of their workman Shri Narayan Sharma w.e.f. 4-10-2005 is legal and justified? If not, to what relief the workman is entitled to?"

2. The above reference was earlier disposed off vide award dated 15- 01-2010. Aggrieved by the above award, the workman filed CWP No. 13469 of 2010 in the Hon'ble High Court of Punjab and Haryana, which was disposed off by the Hon'ble High Court of Punjab and Haryana .vide its order dated 8-11-2011 If by passing the following order :

"When the matter came up for preliminary hearing on 02-08-2010, it was brought to the notice of the Court that petitioner had moved an application for summoning the record of the PGIMER, Chandigarh to 'prove that he was being paid wages by the PGI directly but without deciding the said application, the Labour Court passed the impugned award on the premise that the petitioner was an employee of the contractor.

The fact that the above stated application was pending consideration .before the Tribunal, is not disputed by the respondents also. In these circumstances and without expressing any views on the petitioner's claim, I allow the writ petition; set- aside the impugned award and remit the matter to the Industrial Tribunal-cum-Labour Court-I, Chandigarh to firstly dispose of the petitioner's application for summoning of the record of PGIMER, Chandigarh and thereafter decide the main reference in accordance with law. Parties are directed to appear before the Tribunal-cum-Labour Court on 05-12-2011."

3. In compliance of the above order dated 8.11.2011 of the Hon'ble High Court of Punjab & Haryana, the reference was proceeded further as directed.

4. Workman's applications dated 24-4-2008 and 26-4-2012 for summoning the record of the management have been heard together. Management filed its reply. Both the application were allowed vide this Tribunal order dated 21-03-2013.

5. Brief facts of the case according to the workman are that he was appointed by the authority of PGIMER in March 1998 as ward servant on the recommendation of Dr. S.K.Sharma, Department of Urology, Chandigarh who treated the workman from the diseased and he was assigned the duty of barred servant/hospital attendant which the workman performed without any complaint .. It is further pleaded by the workman that his services were terminated by the official/sanitation.superintendent/officer of the Sanitation department of PGI. The workman approached the health minister and health minister vide his recommendation dated 8.4.2002 directed the Director of the PGI " the person be appointed on a suitable job" and ultimately the workman was appointed and is allowed his work as such and continued to work in the capacity of hospital attendant, ward servant in the different department of PGI including the operation theatre. It is also pleaded by the workman that from the year 2002 he worked with the PGI without any complaint till today but the official of the sanitation department with a view to harass the workman withheld the salary of the workman for a month i.e. March 1999 and also for the days i.e. 5.9.2003, 2.2.2004 and 29.4.2004 for which the sanitary Inspector illegally and unlawfully put the absent of the workman with ulterior motive and with a view to adjust their own man by terminating the services of the workman. The workman made representation but the grievances of the workman was not settled. It is further" pleaded by the workman that his services were utilized in the general gangs of the staff up to 30th of September wherein the workman served in the main OT from 6AM to 4 PM for the last one year and w.e.f. 1.10.2005, the workman was ordered to work in the evening shift started from 8PM to 4AM as per directions of the official of the management. On 3.10.2005 the workman was forced by the official of the management to work from 8AM to 6-30 PM i.e. more than 2 and half hours extra every day. It is further pleaded that on 4.10.2005 the workman informed the official of the management that he will work for 8 hours i.e. up to 4 AM and on objection of the workman his salary was withheld for whole of the month on the directions of the official of the management of PGI. On 5.10.2005 when the workman reported for duty, the sanitary inspector Basant Ram did not mark the presence of the workman and he was told by the official of the management that his services stand terminated being no more required by the management of PGI. The workman prayed that his termination from the services is illegal, arbitrary and as no

notice or compensation as per I.D. Act, 1947 has been paid to the workman and the action of the management of the PGI is liable to be set-aside on this ground as well and the workman required to be treated in continuous service with the management for all intents and purposes including wages also.

6. The management filed written statement. Preliminary objection has been taken that as the workman was not in the employment of the management of PGI, therefore, there is no privity of contract between the parties. The management of PGI entered into agreement with a third party for deployment of watch and ward, house keeping, kitchen and sanitation services etc from time to time as and when required. As the workman was not in the employment of the PGI, therefore, he does not fall within the meaning of Section 2(s) of the I.D. Act, 1947. It is further pleaded that there was no relationship of employer and employee between the respondent management and the petitioner as he was never engaged by the management and was not on the roll of the PGI management at any time. The workman was deployed by the different contractors from time to time for providing house keeping and sanitation services to the management and he might have removed from the roll by the then contractor. Those contractors made payment of the wages of their personnel and deducted EPF and ESI contributions from their wages and deposited the same in the concerned department. It was well within the knowledge of the workman that he was deployed and paid by the contractor to the management but the workman intentionally did not disclose this fact and made false and frivolous allegations that he was engaged by the PGI. On merits also the management of PGI denied all the allegations of the workman. It is stated by the management that the request of the workman was received through the health Minister for consideration for the post of class IV. The same was examined as per Recruitment rules and reply had been submitted to the OSD to the President of the Institute (Minister of Health and Family Welfare) on 22.12.2001 and the petitioner was never appointed by the PGI as alleged by him. It is further submitted that as per rotation duty roster, the staff of main OT including contractual workers were deployed on shift basis. (round the clock from 6AM to 2PM on morning duty, from 12 Noon to 8PM evening duty and from 8 PM to 6 AM night duty (only for 15 days for each work in months and also given 02 extra offs in a week). As workman was deployed in shift duty by the contractor, he must have been compensated for extra duty hours. It is further pleaded that petitioner had not performed extra duty of two and half hours daily because he left the duty at 4AM without informing the sister in charge of duty which caused great inconvenience to the doctors and sisters on duty in main OT and substitute workman was provided by the contractor at 4.15AM in the same shift. On 4.10.2005, the workman was deployed by the contractor in the main operation Theatre in night duty shift

starting from 8PM to 6AM, the sister incharge informed the Sanitation Officer that the petitioner Narain Sharma has left the main OT without any information to the Incharge of main OT. The sanitation Inspector visited the main OT at 4.15AM and found that the petitioner was absent from duty. The sanitary Inspector reported the matter to the Sanitation Officer ( hospital) for further necessary action. The sanitation officer immediately got a substitute from the contractor as the main OT is very sensitive and essential area. It is also pleaded that as the workman was not in the employment of the PGI, therefore, the question of with holding salary for the absence period does not arise as the" sanitation and house keeping services were out source through difference contractors since 1997. It is further categorically pleaded that petitioner was not in the employment of PGIMER and there is no question of making any complaint against him and .the services of the petitioner never been terminated by the GIMER, therefore, there is no question for retaining any junior. It is prayed that as the action of the management i.e. PGIMER is legal, just, proper and in accordance in law, therefore, no action regarding termination of the petitioner has been taken by the respondent management, the claim of the petitioner may be dismissed with cost.

7. Replication to the written statement filed by the petitioner reiterating the claim made in the claim statement. It is pleaded in the replication that termination of the workman was done by the officers of the management and workman never left his services on his own.

8. The workman in evidence filed his affidavit as Ex.W1 alongwith documents Ex.W2 to W-8. The management filed the affidavit of Tilak Raj Sharma as Ex.M1 alongwith documents in 103 pages alongwith written statement. After the case was remanded back to this Tribunal workman Narayan Sharma again filed affidavit dated 28-05-2014 in evidence. The management in rebuttal filed affidavit Ex.M2/ A of Sudhir Kumar, Senior Admn. Officer of PGI. Both the witnesses were examined and cross examined by the parties.

9. I have heard the parties, gone through the evidence and documents earlier filed and also documents and evidence recorded afresh after the case was received on remand.

10. Management specifically denied the fact, that workman was the employee of the management. On behalf of the, management it is further submitted that workman was working through out source, contractor and there was no relationship of employer and employee. In this context not only witness of the management Shri Tilak Raj Sharma who was earlier examined but also workman himself in cross examination conducted earlier clearly admitted that" no appointment letter was issued by the PGI. I was not interviewed by PGI. I was not sponsored by post office, employment office or any other such office". Workman

Narayan Sharma further submitted that no termination letter was given by the PGI. This fact has been corroborated by witness of the management Shri Tilak Raj Sharma. Shri Tilak Raj Sharma in his affidavit in para no.9 specifically mentioned that "petitioner was deployed by different contractors as and when required to the respondent management for sanitation and house keeping services which were being outsourced through the difference contractors since 1997. The petitioner was deployed by these contractors from time to time. The record relating to the agreement with the difference contractors, payment made by contractors to the petitioner, their ESI and provident fund nos. deposit of contribution of ESI and EPF by the contractors.

11. Workman has filed some applications written to the then Hon'ble Health Minister Govt. of India. But workman failed to file any appointment letter issued by the management of PGI. Management has categorically denied that the management of PGI appointed the workman to any post. It is well settled principle of law that workman has to prove that he was engaged or recruited by the management by following the rules of recruitment and after following the proper procedure of recruitment. In the case in hand the workman failed to establish this fact that-he was recruited by the PGI management. Thus it is clear that workman Narayan Sharma was not the employee of the PGI.

12. Management has filed Annexure R-I which is list of contractors who deployed the workman to the PGI management. As per this list M/s. Good House keeping, contractor provided man power to the management for sanitation & House keeping Services from 18-10-97 to 28-2-99, M/s. Amari- Security & Detective Services from 1-3-1999, M/s. Paragon Security and Allied Services from 1-3-2000 to 31-3-2001, M/s Prehari Security & Detective Services Pvt. Ltd. from 1-4-2001 to 15-7-2002, M/s Om Security & Cleaning Services from 16-7-2002 to 31-7-2005 and M/s. A. N. Kapur (Janitors) Pvt. Ltd. from 01-08-2005 to till date. In the list of contractor M/s Good House keeping Services, the provident fund number of Narayan Sharma workman has been given as 1823 at serial no.244. All these documents give strength to the submissions of the management that workman was never employed by the PGI and his services were terminated by the outsourced contractor.

13. Workman submitted that despite the order of this Tribunal dated 21-3-2013 the management deliberately not produced the documents for the period April 99 to June 99 ( three months), It is submitted on behalf of the workman that if the engagement of the workman during this period of three months is considered, then the workman can be presumed his working for 240 days in a calendar year preceding to the date of termination. Management opposes this contention and submitted that management filed the entire record which was available in the office of

the management. It is an admitted fact that services of the workman were terminated w.e.f. 4-10-2005. These documents for the period from April 99 to June 99 which were not filed by the management have no relevance as it could not be inferred that workman worked for 240 days in a calendar year preceding to the date of termination i.e. 4-10-2005. Besides this management also submitted that the contractor has not been impleaded as party by the workman in the reference and management was under no obligation to pay any retrenchment compensation, notice of one month or pay in lieu of notice to the workman at the time of termination of the workman as he was not the employee of the management of the PGI.

14. In view of the facts and circumstances of the case, as workman was not the employee of the management of PGI, therefore, the action of the management of PGIMR, Chandigarh, in terminating the service of their workman Shri Narayan Sharma w.e.f. 4-10-2005 can not be said to be illegal and unjustified. Consequently the workman is not entitled to any relief.

15. Reference is disposed off accordingly Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.

27.01.2016

S. P. SINGH, Presiding Officer

नई दिल्ली, 8 फरवरी, 2016

**का.आ. 293.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार हवी एलाय पेनेट्रेशन प्रोजेक्ट और अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एमं श्रम न्यायालय, चेन्नै के पंचाट (संदर्भ संख्या 3/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.02.2016 को प्राप्त हुआ था।

[सं. एल-14011/21/2014-आई आर (डीयू)

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 8th February, 2016

**S.O. 293.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Heavy Alloy Penetration Project & Others, and their workmen, which was received by the Central Government on 05.02.2016.

[No. L-14011/21/2014-IR(DU)]

P. K. VENUGOPAL, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL- CUM - LABOUR  
COURT CHENNAIWednesday, the 27<sup>th</sup> January, 2016**Present:** K. P. PRASANNA KUMARI, Presiding Officer  
Industrial Dispute No. 3/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Heavy Alloys Penetration Project and Another and their workman)

## BETWEEN

The Secretary : 1<sup>st</sup> Party/Petitioner Union  
HAPP Contract Labours Union  
1/534, 3<sup>rd</sup> South Street, Poolungudi Colony  
HAPP Township Post Office  
Tiruchirapalli-620025

## AND

1.The General Manager : 2<sup>nd</sup> Party/1<sup>st</sup> Respondent  
Heavy Alloy Penetration Project  
Ministry of Defence  
Trichy-6200252.Mr. Ramachandran : 2<sup>nd</sup> Party/2<sup>nd</sup> Respondent  
Managing Director,  
Sri Security Services  
Anna Nagar  
Mathur Post  
Pudukkottai DistrictAppearance:For the 1<sup>st</sup> Party/ : Sri D. Muthukumar, Advocate  
Petitioner UnionFor the 2<sup>nd</sup> Party/ : M/s M. Liagatali, Advocate  
1<sup>st</sup> RespondentFor the 2<sup>nd</sup> Party/ : Set Ex-parte  
2<sup>nd</sup> Respondent

## AWARD

The Central Government, Ministry of Labour &amp; Employment vide its Order No.L-14011/21/2014-IR (DU) dated 22.12.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Heavy Alloy Penetrator Project, Trichy directing the Contractor to terminate Sri C. Vinayakamurthy is legal and justified? If not, to what relief the concerned workman is entitled?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 3/2015 and issued notices to both

sides. On receipt of notice the petitioner and the First Respondent had filed claim and counter statement respectively. The Second Respondent who was impleaded in the ID at a later stage has remained ex-parte.

3. The averments in the Claim Statement filed by the petitioner are as below:

C. Vinayakamoorrthy, a member of the Petitioner Union was engaged as contract labour in the First Respondent establishment in the year 1999 to execute the work of cleaning, sweeping and other works. Financial irregularities were committed by First Respondent from the year 2000 onwards through fraudulent mode of payment of wages. Vinayakamoorthy had resisted these financial irregularities in his capacity as General Secretary of the Petitioner Union. He had given evidence before the Central Vigilance Commission regarding the fraud committed by the First Respondent in collusion with the Contractor. He had given evidence before the CBI also against the First Respondent Management and the CBI had indicted 17 Group “A” Level Officers of the Respondent. Such activities of Vinayakamoorthy resulted in his criminal intimidation. Vinayakamoorthy had made complaint against manual cleaning of septic tank. As a consequence of all these Vinayakamoorthy had been terminated from service on 11.04.2011 on the basis of a direction issued by the First Respondent. The Respondent did not comply with the provisions of Section-25F of the ID Act while terminating the petitioner from service. Vinayakamoorthy is without any employment. There is no justification for the termination. An order may be passed setting aside the termination and directing the Respondent to reinstate the petitioner with backwages, continuity of service and other attendant benefits.

4. The First respondent has filed Counter Statement contending as below:

The First Respondent is not the employer of the petitioner. Employer-Employee relationship does not exist between the petitioner and the First Respondent. The First Respondent is a defence production unit under the Ministry of Defence producing arms and ammunitions. For sundry works such as cleaning of roads, toilets, etc. contracts are executed and the Contractors are having their own labourers for executing the work. Vinayakamoorthy, the concerned workman was one of the labourers engaged by a Contractor. The allegations made by the petitioner against the First Respondent are false. The concerned workman did not turn up for duties for years together. He had instigated his co-employees against the smooth functioning of the defence installation. The petition is liable to be dismissed.

5. The Second Respondent was subsequently impleaded as the Contractor under whom the concerned workman was employed. This Respondent remained ex-parte.

6. The evidence in the case of consists of oral evidence of WW1 and documents marked as Ext.W1 to Ext.W6. The Respondent did not adduce any evidence either oral or documentary.

**5. The points for consideration are:**

(i) Whether there is any justification in terminating the service of C. Vinayakamoorthy, the concerned workman?

(ii) What, if any is the relief to which Vinayakamoorthy is entitled?

**The Points**

7. The petition is filed on behalf of Vinayaka moorthy, who was the General Secretary of the Petitioner Union. Vinayakamoorthy who was doing cleaning and sweeping work on contract basis is said to have been terminated from service on direction by the First Respondent.

8. It is clear even from the Claim Statement that Vinayakamoorthy was working for the First Respondent under a Contractor and was not directly employed by the First Respondent. The case in the Claim Statement is that it was as directed by the First Respondent, Vinayakamoorthy was terminated from service. During his cross-examination as WW1 the concerned workman has stated specifically that he was working through the Second Respondent, the Contractor. The concerned workman seems to have approached the Central Administrative Tribunal claiming regularization in the services of the First Respondent and the case was decided against him. He had earlier raised Industrial Dispute claiming regularization before the Central Labour Commissioner for declaration that the contract between the First Respondent and the Contractor is sham and nominal and for regularization of his service with the First Respondent. This was also decided against him. The Writ Petition filed by him challenging the award also was dismissed. So the concerned workman is not entitled to any relief against the First Respondent.

9. It is clear from the evidence that the concerned workman was working under the Second Respondent as contract labour at the time when his service was terminated. Ext.W2 is the letter written by the Second Respondent to the concerned workman. This document is produced to prove that it was at the instruction of the First Respondent the concerned workman was terminated from service. There was enough reason for the First Respondent to do so also. As could be seen from the Claim Statement, the Proof Affidavit filed by the concerned workman and the documents produced, the concerned workman had been raising his voice against the alleged misdeeds of the officials of the First Respondent, Ext.W1 is the extract of the internal enquiry in which the concerned workman had given evidence. Ext.W3 is the enquiry report. Ext.W4 is the reply received from Central Bureau of Investigation on

an RTI application furnishing the names of public servants of the Respondent against whom departmental action has been recommended. Ext.W5 is the copy of the First Information Report based on the complaint made by the concerned workman against the First Respondent Management. The Second Respondent has stated in Ext.W2 that if the concerned workman is allowed to continue in employment, the contract with the First Respondent will be terminated. What is stated in Ext.W2 is that work will not be provided to the concerned workman from 11.12.2011. the concerned workman has narrated the circumstances under which he was terminated from service.

10. The Second Respondent has not come forward to resist the case. It is only because of the pressure from the First Respondent, the concerned workman has been terminated from service. Apparently there was no compliance of Section-25F of the ID Act while terminating the concerned workman. No valid reasons are given in Ext.W2 for the termination. The fact that the concerned workman had pointed out certain irregularities in the First Respondent Management is not valid reason to terminate him from service. The Second Respondent is bound to take the petitioner back in service.

11. Accordingly, the Second Respondent is directed to reinstate C. Vinayakamoorthy, the concerned workman in service within a month of publication of the Award with 25% backwages from the date on which the dispute was raised, payable by the same time. In default of payment of backwages, interest at the rate of 7.5% per annum is payable from the date of the award.

An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined:**

For the 1<sup>st</sup> Party/ : WW1, Sri C. Vinayakamoorthy Petitioner Union

For the 2<sup>nd</sup> Party/Management: None

**Documents Marked:**

**On the petitioner's side**

| <b>Ex. No.</b> | <b>Date</b> | <b>Description</b>                       |
|----------------|-------------|--|
| Ext.W1         | 25.05.2011  | Extract of the internal enquiry          |
| Ext.W2         | 18.06.2011  | Letter issued by the Contractor          |
| Ext.W3         | -           | Extract of the internal enquiry report   |
| Ext.W4         | -           | Reply given by the CBI under the RTI Act |
| Ext.W5         | 16.12.2013  | FIR No: 21/2013                          |

Ext.W6 23.05.2015 Extract of the order passed by the Assistant Provident Fund Commissioner

**On the Management's side**

**Ex.No.** **Date** **Description**

Nil

नई दिल्ली, 8 फरवरी, 2016

**का.आ. 294.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आरएमएस, आरएमएस-म डिवीजन चेन्नई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नै के पंचाट (संदर्भ सं. 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05/02/2016 को प्राप्त हुआ था।

[सं. एल-40012/128/2013-आईआर (डीयू),  
सं. एल-40012/129/2013-आईआर (डीयू),  
सं. एल-40012/130/2013-आईआर (डीयू),  
सं. एल-40012/131/2013-आईआर (डीयू),  
सं. एल-40012/132/2013-आईआर (डीयू),  
सं. एल-40012/133/2013-आईआर (डीयू),  
सं. एल-40012/134/2013-आईआर (डीयू),  
सं. एल-40012/135/2013-आईआर (डीयू),  
सं. एल-40012/136/2013-आईआर (डीयू),  
सं. एल-40012/137/2013-आईआर (डीयू),  
सं. एल-40012/138/2013-आईआर (डीयू),  
सं. एल-40012/139/2013-आईआर (डीयू),  
सं. एल-40012/140/2013-आईआर (डीयू),  
सं. एल-40012/141/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 8th February, 2016

**S.O. 294.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of RMS, RMS-M Division, Chennai and their workmen, which was received by the Central Government on 05-02-2016.

[No. L-40012/128/2013-IR(DU),  
No. L-40012/129/2013-IR(DU),  
No. L-40012/130/2013-IR(DU),  
No. L-40012/131/2013-IR(DU),  
No. L-40012/132/2013-IR(DU),

No. L-40012/133/2013-IR(DU),  
No. L-40012/134/2013-IR(DU),  
No. L-40012/135/2013-IR(DU),  
No. L-40012/136/2013-IR(DU),  
No. L-40012/137/2013-IR(DU),  
No. L-40012/138/2013-IR(DU),  
No. L-40012/139/2013-IR(DU),  
No. L-40012/140/2013-IR(DU),  
No. L-40012/141/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
CHENNAI**

Thursday, the 28<sup>th</sup> January, 2016

**Present :** K. P. PRASANNA KUMARI,  
Presiding Officer

**Industrial Dispute No. 17-30 of 2014**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of The Superintendent, RMS and Another and their workmen)

**BETWEEN**

1. Ms. R. Vidya : 1st Party/1st Petitioner
2. Sri S. Bhoopalan : 1st Party/2nd Petitioner
3. Ms. S. Manjula : 1st Party/3rd Petitioner
4. Sri K. Jaisankar : 1st Party/4th Petitioner
5. Sri S. Palani : 1st Party/5th Petitioner
6. Sri G. Madhankumar : 1st Party/6th Petitioner
7. Sri M. Arunkumar : 1st Party/7th Petitioner
8. Sri D. Mohan : 1st Party/8th Petitioner
9. Sri M. Dilliganapathy: 1st Party/9th Petitioner
10. Ms. G. Vadivukarasi : 1st Party/10th Petitioner
11. Sri S. Arunkumar : 1st Party/11th Petitioner
12. Ms. L. Banumathi : 1st Party/12th Petitioner
13. Ms. J. Malarkodi : 1st Party/13th Petitioner
14. Ms. P. Sivasankari : 1st Party/14th Petitioner

And

1. The Superintendent : 2<sup>nd</sup> Party/1<sup>st</sup> Respondent  
RMS, RMS-M Division

**Chennai-600008**

2. The Sub-Record Officer : 2<sup>nd</sup> Party/2<sup>nd</sup> Respondent  
RMS-M Division  
Gandhi Nagar

**Vellore-632006**

| S.No | I.D.No. | Reference No. & Date                            | Name of the I Party<br>S/Sri/Smt. | Name of the II Party  |
|------|---------|---|-----------------------------------|---|
| (1)  | (2)     | (3)   | (4)                               | (5)   |
| 1.   | 17/2014 | L-40012/128/2013-IR (DU)<br>dated 21/25.02.2014 | R. Vidya                          | 1. The Superintendent RMS, RMS-M Division Chennai-8<br>2. The Sub-Record Officer RMS-M Division Gandhi Nagar Vellore-632006 |
| 2.   | 18/2014 | 40012/129/2013-IR (DU)<br>dated 24/25.02.2014   | S. Bhoopalan                      | 1. The Superintendent RMS, RMS-M Division Chennai-8<br>2. The Sub-Record Officer RMS-M Division Gandhi Nagar Vellore-632006 |
| 3.   | 19/2014 | L-40012/130/2013-IR (DU)<br>dated 21/25.02.2014 | S. Manjula                        | 1. The Superintendent RMS, RMS-M Division Chennai-8<br>2. The Sub-Record Officer RMS-M Division Gandhi Nagar Vellore-632006 |
| 4.   | 20/2014 | L-40012/131/2013-IR (DU)<br>dated 21/25.02.2014 | K. Jaishankar                     | 1. The Superintendent RMS, RMS-M Division Chennai-8<br>2. The Sub-Record Officer RMS-M Division Gandhi Nagar Vellore-632006 |
| 5.   | 21/2014 | L-40012/132/2013-IR (DU)<br>dated 21/25.02.2014 | S. Palani                         | 1. The Superintendent RMS, RMS-M Division Chennai-8<br>2. The Sub-Record Officer RMS-M Division Gandhi Nagar Vellore-632006 |
| 6.   | 22/2014 | L-40012/133/2013-IR (DU)<br>dated 21/25.02.2014 | G. Madhankumar                    | 1. The Superintendent RMS, RMS-M Division Chennai-8<br>2. The Sub-Record Officer RMS-M Division Gandhi Nagar Vellore-632006 |
| 7.   | 23/2014 | L-40012/134/2013-IR (DU)<br>dated 21/25.02.2014 | M. Arunkumar                      | 1. The Superintendent RMS, RMS-M Division Chennai-8<br>2. The Sub-Record Officer RMS-M Division Gandhi Nagar Vellore-632006 |

| (1) | (2)     | (3)   | (4)               | (5)   |
|-----|---------|---|-------------------|---|
| 8.  | 24/2014 | L-40012/135/2013-IR (DU)<br>dated 21/25.02.2014 | D. Mohan          | <ol style="list-style-type: none"> <li>1. The Superintendent<br/>RMS,<br/>RMS-M Division<br/>Chennai-8</li> <li>2. The Sub-Record Officer<br/>RMS-M Division<br/>Gandhi Nagar<br/>Vellore-632006</li> </ol> |
| 9.  | 25/2014 | L-40012/136/2013-IR (DU)<br>dated 21/25.02.2014 | M. Dilliganapathi | <ol style="list-style-type: none"> <li>1. The Superintendent<br/>RMS,<br/>RMS-M Division<br/>Chennai-8</li> <li>2. The Sub-Record Officer<br/>RMS-M Division<br/>Gandhi Nagar<br/>Vellore-632006</li> </ol> |
| 10. | 26/2014 | L-40012/137/2013-IR (DU)<br>dated 21/25.02.2014 | G. Vadivukarasi   | <ol style="list-style-type: none"> <li>1. The Superintendent<br/>RMS,<br/>RMS-M Division<br/>Chennai-8</li> <li>2. The Sub-Record Officer<br/>RMS-M Division<br/>Gandhi Nagar<br/>Vellore-632006</li> </ol> |
| 11. | 27/2014 | L-40012/138/2013-IR (DU)<br>dated 21/25.02.2014 | S. Arunkumar      | <ol style="list-style-type: none"> <li>1. The Superintendent<br/>RMS,<br/>RMS-M Division<br/>Chennai-8</li> <li>2. The Sub-Record Officer<br/>RMS-M Division<br/>Gandhi Nagar<br/>Vellore-632006</li> </ol> |
| 12. | 28/2014 | L-40012/139/2013-IR (DU)<br>dated 21/25.02.2014 | L. Banumathi      | <ol style="list-style-type: none"> <li>1. The Superintendent<br/>RMS,<br/>RMS-M Division<br/>Chennai-8</li> <li>2. The Sub-Record Officer<br/>RMS-M Division<br/>Gandhi Nagar<br/>Vellore-632006</li> </ol> |
| 13. | 29/2014 | L-40012/140/2013-IR (DU)<br>dated 21/25.02.2014 | J. Malarkodi      | <ol style="list-style-type: none"> <li>1. The Superintendent<br/>RMS,<br/>RMS-M Division<br/>Chennai-8</li> <li>2. The Sub-Record Officer<br/>RMS-M Division<br/>Gandhi Nagar<br/>Vellore-632006</li> </ol> |

| (1) | (2)     | (3)  | (4)            | (5)  |
|-----|---------|--|----------------|--|
| 14. | 30/2014 | L-40012/141/2013-IR (DU)<br>dated 21/02.2014 | P. Sivasankari | 1. The Superintendent<br>RMS,<br>RMS-M Division Chennai-8<br>2. The Sub-Record Officer<br>RMS-M Division<br>Gandhi Nagar<br>Vellore-632006 |

### COMMON AWARD

The Central Government, Ministry of Labour & Employment vide the order of references detailed above referred the IDs to the Industrial Tribunal, Chennai for adjudication. The IDs were numbered as ID 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of 2014 respectively. In all the IDs the parties have entered appearance through their counsel and filed claim and counter statement respectively.

2. The Schedule mentioned in the orders of reference in the above IDs are as under:

#### ID 17/2014

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 18/2014

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 19/2014

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 20/2014

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 21/2014

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of*

*Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 22/2014

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 23/2014

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 24/2014

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 25/2104

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 26/2104

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

#### ID 27/2014

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

**ID 28/2014**

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

**ID 29/2014**

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

**ID 30/2014**

*“Whether the action of the management of RMS-M Division, Chennai regarding termination of the service of the petitioner without following the provisions of Section-25(F) of the ID Act is justifiable or not? If not, to what relief the petitioner is entitled to?”*

3. The averments in each of the Claim Statements in the above IDs are given below:

**ID 17/2014**

The work in the Railway Main Service (RMS) in the Office of the Second Respondent was carried out in two shifts, between 0200 PM and 0930 PM and between 0530 PM and 0610 AM. The work will have to be carried out throughout the year. There was some change in the timing of the first shift later. The work of the RMS is permanent and perennial. The main work in RMS is sorting of mails category-wise. The work was originally carried out by Permanent Sorting Assistants. The Second Respondent started employing temporary Sorting Assistants like the petitioner to carry out the work rather than filling up the permanent vacancies. The petitioner was appointed by the Second Respondent as temporary Sorting Assistant in 2010 January by an oral order. The petitioner was directed to report for work in any one of the two shifts depending upon the requirements. The petitioner and other similarly placed temporary Sorting Assistants worked alongwith the Permanent Sorting Assistants. The temporary Sorting Assistants used to sign the Attendance Register immediately after they reported for work. The Attendance Register was common for permanent and temporary employees. The Head Sorting Assistant or the Shift Supervisor used to allot work to the temporary Sorting Assistants. The sorting work of Registered Post, Speed Post and Money Order would be carried out under the control and supervision of the Shift Supervisor. The sorting work of ordinary mails and parcels would be carried out under the control of Head Sorting Assistant. The petitioner and other Sorting Assistants were paid wages on daily rated basis. Payment was made at the end of each month. Though the Temporary Sorting

Assistants carried out the same kind of work as that of Permanent Sorting Assistants they were not paid salary and other allowances that were paid to the Permanent Sorting Assistants. Payment was made to the petitioner and other Temporary Sorting Assistants after getting their signature in the pay-roll and the money paid receipts. Daily report used to be sent from the Office of the Second Respondent to the Office of the First Respondent. This report contained the details of work allotted to each staff including the temporary staff. The petitioner was continuously employed on all working days without any break. She had put in more than 240 days of service each year. Though she was continuously employed for more 3 years and has completed 480 days of service in 24 calendar months she was not made permanent. When the petitioner and other Temporary Sorting Assistants reported for work on 27.03.2013 they were not allowed to enter the office and were denied employment from 27.03.2013. The Industrial Dispute is raised accordingly. The petitioner is fully qualified for appointment to the post of Sorting Assistant. An order may be passed holding that the action of the Respondents in terminating the service of the petitioner is unjustified and also directing the Respondents to reinstate the petitioner in service as a Permanent Sorting Assistant with continuity of service, backwages and other attendant benefits.

**ID 18/2014**

The petitioner in ID 18/2014 also claims to have been a Temporary Sorting Assistant at the Office of the Second Respondent. According to this petitioner he was appointed by the Respondent as Temporary Sorting Assistant in December, 2007. He has worked continuously with the Second Respondent and had completed more than 240 days of service in each year of work. According to him he was also terminated on 27.03.2012. The relief of reinstatement as a Permanent Sorting Assistant is claimed by this petitioner also.

**ID 19/2014**

The petitioner in this ID is said to have joined the Office of the Second Respondent as Temporary Sorting Assistant in June, 2007 orally and was turned out on 27.03.2012. She has also claimed to have been working continuously for more than 240 days in each year of service. The relief of reinstatement as a Permanent Sorting Assistant is claimed by this petitioner also.

**ID 20/2014**

The petitioner in this ID has claimed to have joined the Office of the Second Respondent as Temporary Sorting Assistant by oral order in January 2010 and worked until he was allegedly terminated from service on 27.03.2012. This petitioner also has claimed to have worked for more than 240 days in each year of service

and has claimed the relief of reinstatement as Permanent Sorting Assistant.

#### **ID 21/2014**

The petitioner in this ID has claimed to have been appointed as Temporary Sorting Assistant in December, 2007. He was also allegedly terminated from service on 27.03.2012. He has also claimed to have worked for more than 240 days in each year of service and has claimed reinstatement in the service of the Second Respondent.

#### **ID 22/2014**

The case of the petitioner in this ID is that he was appointed as Temporary Sorting Assistant in the Office of the Second Respondent by oral order in June 2007. He has also claimed that he had been continuously working with the Second Respondent for more than 6 years and had completed more than 240 days in each year. The relief of reinstatement is claimed by this petitioner also.

#### **ID 23/2014**

The petitioner in this ID has claimed to have been appointed by the Second Respondent as Temporary Sorting Assistant in December, 2007. He is said to have worked with the Second Respondent continuously for more than 5 years and is said to have completed 480 days work in all the calendar years he has worked. He is also claiming the relief of reinstatement.

#### **ID 24/2014**

The case of the petitioner in this ID is that he has started to work with the Second Respondent in December, 2005, had continuously worked for more than 7 years and had completed 480 days of work in 24 calendar months. He was also allegedly terminated from service on 27.03.2012. The relief is claimed by this petitioner also is the same.

#### **ID 25/2014**

The petitioner in this case is said to have been appointed by the Second Respondent as Temporary Sorting Assistant in December 2005. He too was allegedly terminated from service on 27.03.2012. This petitioner also has claimed to have been working continuously and had completed 480 days of service in 24 calendar months and also put in more than 240 days of service in each year. This petitioner also seeks the relief of reinstatement.

#### **ID 26/2014**

The case of this petitioner is that she was appointed by the Second Respondent as Temporary Sorting Assistant in December 2005. She is said to have worked continuously till 27.03.2012 on which date she was terminated from service. She has also claimed that she

had put in more than 240 days of service in each year of service and has completed 480 days of service within 24 calendar months. This petitioner also is claiming the same relief.

#### **ID 27 of 2014**

The petitioner in this ID is said to have been employed by the Second Respondent in December 2007. According to him, he had been working continuously, had put in more than 240 days of service in each year and had completed 480 days of service in 24 calendar months. He was also allegedly terminated on 22.03.2012. The relief of reinstatement is sought by this petitioner also.

#### **ID 28/2014**

The petitioner in this ID is said to have been appointed by the Second Respondent as Temporary Sorting Assistant in January 2010. She has also claimed to have worked for more than 240 days in each year of service and completed 480 days of service in 24 calendar months. She was also allegedly terminated on 27.03.2012. This petitioner also seeks the same relief.

#### **ID 29 of 2014**

The petitioner in this ID is said to have been appointed by the Second Respondent in June 2007. She has also claimed to have worked continuously putting in 240 days of work in each year and completing 480 days of work in 24 calendar months. The alleged termination on 27.03.2012 is questioned by this petitioner and the relief of reinstatement is sought by her.

#### **ID 30 of 2014**

The petitioner in this ID has allegedly joined the Second Respondent as Temporary Sorting Assistant in June 2007 and is said to have continuously worked for more than 5 years until she was terminated on 27.03.2012. According to her she has worked for more than 240 days in each year of service and has completed 480 days of service in 24 calendar months and is entitled to the relief of reinstatement.

4. A common counter statement was filed by the Respondents in all the IDs are as below:

The contention raised by the Respondents in all the above IDs are the same. According to the Respondents no Temporary Sorting Assistants were ever employed by the Second Respondent. Only outsiders were employed on wages prescribed by the District Collector. As there was no appointment as temporary sorting assistant, there is no question of reinstatement also. According to the Respondents engagement of outsiders was on hourly basis at Katpadi RMS on leave vacancy of departmental staff. Service records are not available in respect of the petitioners as they were not departmental staff. It is further stated by the Respondents that recruitment to the

post of Temporary Sorting Assistants is based on Recruitment Rules, scheme of examination, etc. It is the further case of the Respondents that the petitioners are not qualified to be recruited. The Second Respondent has no power to recruit an employee to the post of Sorting Assistant in the Railway Mail Service also. According to the Respondents none of the petitioners are entitled to any relief.

5. The claim of the petitioners in all the above IDs being that they have worked with the Second Respondent as temporary Sorting Assistant and the relief claimed also being the same, the above IDs were tried jointly on the basis of the joint memo filed by the parties. ID 17/2014 was treated as the main ID and evidence was recorded in this.

6. The evidence consists of oral evidence of WW1 to WW14 and MW1 and documents marked as Ext.W1 to Ext.W29 and Ext.M1 to Ext.M6.

#### **7. The points for consideration are:**

- (i) Whether the termination of the petitioners from the service of the Second Respondent is legal and justified?
- (ii) What, if any is the relief to which each of the petitioner is entitled?

#### **The Points**

8. The petitioners in all the cases were working as Temporary Sorting Assistants in the Office of the Second Respondent. They have alleged that they were illegally terminated from their job on 27.03.2012. The disputes were raised on account of this. The schedule of reference is regarding the legality of termination of the service of the petitioners without following the provisions of Section-25F of the ID Act. However, in all the Claim Statements, the petitioners have sought the relief of reinstatement with the First Respondent as Permanent Sorting Assistant with continuity of service, backwages and other benefits. This demand of the petitioners for permanency in the job need not be considered for the reason that it is not a matter referred to by the Government. The reference is regarding termination of service and not permanency of the petitioners.

9. The evidence given by each of the petitioners to establish their case that they have been working for a long time as Temporary Sorting Assistants can be discussed first. Evidence in each of the cases is discussed below separately for the sake of convenience:

#### **ID 17/2014**

The petitioner in ID 17/2014 has given evidence as WW8. Ext.W13 to Ext.W15 are the documents marked through this witness. This witness has stated in her affidavit of Chief Examination that she was appointed as a Temporary Sorting Assistant in May 2007 by an oral

order of the Second Respondent. She has stated that she was directed to report for work in any one of the two shifts, depending upon the requirements. She has further stated that herself and other similarly placed Temporary Sorting Assistants were working alongwith the Permanent Sorting Assistants. She has also stated that the Attendance Register was common for both permanent and temporary employees. She used to sign the Register. She was paid wages on daily rated monthly paid basis.

10. Ext.W13 is the Attendance Register marked through WW8. The name R. Vidya, the name of the petitioner appears a few times in the document. After 25.11.2011 the date shown in this is 15.07.2011 and then 19.07.2011. The document does not reveal the signature of any Officer or any seal of the Respondent. Ext.W14 is only copy of Provisional Certificate of the petitioner and Ext.W15 is the Reply Statement filed by her before the Assistant Labour Commissioner.

#### **ID 18/2014**

The petitioner in this ID is said to have joined the Second Respondent as Temporary Sorting Assistant in December 2007. He was examined as WW2. He has also given evidence in tune with that of WW8. This witness did not produce any documents in support of his case.

#### **ID 19/2014**

The petitioner in this ID was examined as WW9. She is said to have joined the Second Respondent as Temporary Sorting Assistant in June 2007. The evidence regarding the working conditions given by her is the same as that of the other two witnesses. Ext.W16 and Ext.W17 are the documents marked through this witness. Ext.W16 is the copy of the Attendance Register showing the dates 04.02.2010, 13.03.2010 and 19.03.2010. The name Manjula appears in the document on these dates. Ext.W17 is only the copy of Higher Secondary Course Certificate of this petitioner.

#### **ID 20/2014**

The petitioner in this ID was examined as WW10. He is said to have joined the Office of the Second Respondent as Temporary Sorting Assistant in January 2010. The evidence of this witness regarding the work done at the Office is a replica of the evidence given by the witnesses already referred to. Ext.W18 and Ext.W19 are the documents marked through this witness. Ext.W19 is the Provisional Certificate of the petitioner regarding his degree course. Ext.W18 is the Attendance Register showing the dates 25.11.2011, 15.07.2011 and 19.07.2011. This document is in fact Ext.W13, the document marked through WW8 itself. The name Jayashankar, the name of the petitioner appears in the document once and that also as an insertion.

**ID 21/2014**

The petitioner in this ID was examined as WW7 and Ext.W11 and Ext.W12 were marked through him. His evidence regarding the manner of work done by him is also the same as that of other witnesses. Ext.W11 is the copy of the Attendance Register showing the dates 03.12.2011, 19.07.2011, 15.07.2011 and 25.11.2011. Palani, the name of the petitioner appears in the document on a few occasions. Ext.W12 is a copy of a memo issued to the petitioner stating that during his work he had included registered articles not relating to Arakkonam HO in Arakkonam HO bag. He is warned by memo that if such type of irregularity is noticed, his service as OSA will be terminated. This definitely shows that he was working with the Second Respondent in July 2011.

**ID 22/2014**

The petitioner in this ID was examined as WW1. He is said to have joined the Second Respondent in December 2007 by an oral order. He has supported the case of the other witnesses regarding the manner of work carried out. Ext.W1 and Ext.W2 are the documents marked through this witness. Ext.W1 is a copy of the letter to Sub-Record Office. Ext.W2 is the copy of the sanction for payment of Rs. 1,50,252/- towards wages for GDS (Outsiders) engaged for the period from 21.02.2012 to 20.03.2012. This is only a common sanction order for payment to all the workers described as outsiders. There is no reference to the petitioner in ID 22/2014 or any other petitioner in this document.

**ID 23/2014**

The petitioner in this ID was examined as WW11. He has claimed that he was appointed as Temporary Sorting Assistant in December, 2007. The evidence given by this witness regarding the working conditions is not different from the evidence given by the other witnesses. Ext.W20 to Ext.W22 were marked through this witness. Ext.W20 is only the Higher Secondary Course Certificate. Ext.W21 is the copy of the Attendance Register dated 11.02.2011 and Ext.W22 is that of 13.02.2011. These two documents contain the seal of the Head Sorting Assistant .

**ID 24/2014**

The petitioner in this ID was examined as WW5. This witness has claimed that he had started to work with the Second Respondent on 02.11.2005 and continue to work there until 23.12.2012 on which date he was denied employment. Ext.W7 is marked through this witness. Ext.W7 is the copy of the Identity Card in which the petitioner is described as Outsider SA (Temporary). This of course would show that the petitioner was working as Temporary Sorting Assistant.

**ID 25/2014**

The petitioner in this case was examined as WW4. He has joined the Office of the Second Respondent on

07.1.2005. He has stated that he was given training for 3 days. Ext.W3 to Ext.W6 were marked through this witness. Ext.W3 is the copy of the Attendances Register showing the dates 12.02.2010, 13.02.2010, 18.02.2010, 23.02.2010 and 06.03.2010. The name of the petitioner appears in the document under each dates given. Ext.W4 is the letter dated 13.02.2008 written by the Superintendent of RMS Division addressed to the petitioner. The letter reveals that the petitioner had admitted to have lost a registered letter dated 13.10.2007 which was to go to Singapore. The petitioner was asked to pay compensation towards its loss. There is no dispute regarding the authenticity of this letter. The letter reveals that the petitioner had been working with the Respondent during October 2007 and also in February 2008. Ext.W5 is a letter by the Superintendent of RMS "M" Division to the SRO of the same Division stating that the Outsiders including Delhi Ganapathy, the petitioner are to be given practical training for sorting work for 3 days from 08.12.2005 to 10.12.2005. Ext.W6 is the copy of the Identity Card describing the petitioner as Outsider Sorting Assistant (Temporary).

**ID 26/2014**

The petitioner in this ID was examined as WW6. She is said to have been appointed as Temporary Sorting Assistant on 07.12.2005. She was given training for three days. The name of this witness also appears in Ext.W5 as an Outsider to be given training. Ext.W8 to Ext.W10 are the documents marked through this witness. Ext.W8 is the Attendance Register giving the dates 08.01.2010, 26.01.2010, 14.11.2009 and 24.11.2009. The document contains the name of the petitioner also under the dates referred to earlier. Ext.W9 is the copy of the Money Payment Receipt showing that the petitioner had received Rs. 195/- on 27.02.2012 from the Department of Posts. Ext.W10 is the copy of the Identity Card in which the petitioner is shown as Outsider SA (Temporary).

**ID 27/2014**

The petitioner in this ID was examined as WW3. He is said to have been appointed as Temporary Sorting Assistant in December, 2007 by the Second Respondent. He is said to have worked till 27.03.2012. He has not produced any document to substantiate his case.

**ID 28/2014**

The petitioner in this ID was examined as WW12. According to her she was appointed as temporary Sorting Assistant in December 2007 and had continued to work so until 27.03.2012 on which date she was denied work alongwith the other petitioners. Ext.W23 to Ext.W26 are the documents marked through this witness. Ext.W23 is the copy of the Attendances Register showing the dates 24.02.2010, 01.03.2010, 02.03.2010, 11.03.2010, 14.03.2010 and 15.03.2010. Her name is there on a few

occasions in the document. Ext.W24 is the copy of Money Payment Receipt showing that the petitioner had received Rs. 195/- on 21.02.2012 from the Postal Department. Ext.W25 is the certificate showing the educational qualification of the petitioner and Ext.W26 is the copy of the petition filed by her before the Assistant Labour Commissioner (Central), Chennai.

#### **ID 29/2014**

The petitioner in this ID was examined as WW12. The petitioner is said to have joined the Second Respondent as Temporary Sorting Assistant in June 2007. She is also said to have been denied work from 27.03.2012 until which date she had worked continuously. Ext.W27 and Ext.W28 were marked through this witness. Ext.W27 is the document showing the qualification. Ext.W28 is the copy of the Attendance Register bearing the date 09.03.2011. The name of the petitioner is at the bottom of this document. There is a seal of the Sorting Assistant with a signature.

#### **ID 30/2014**

The petitioner in this ID was examined as WW14. She has stated that she was appointed by the Second Respondent as Temporary Sorting Assistant in June 2007 and she had worked until she was displaced on 27.03.2012. Ext.W2, the Higher Secondary School Certificate is the only document marked through this witness.

11. The Attendance Registers produced through some of the petitioners do not give a clear picture of the attendance of the petitioners for work. Only portions of the Registers without any order are produced. The dates given in most of the Registers are in juxtaposed stage. Only a few of them contains the seal and the signature of the concerned official. However, in spite of these discrepancies, I assume that the documents are genuine, even though without any seal or signature for the reason that at least some of them are having seal and signature and the other documents are also seen maintained in the same fashion even though seal and signature are not there. However, the name of all the petitioners are not appearing on all the dates in the Registers. Of course, there is the evidence that the petitioners were working in different shifts as per the requirements.

12. The above discrepancies will not matter regarding the engagement of the petitioners since it is admitted by the Respondents in the Counter Statement filed in all the IDs that the concerned petitioner had been engaged as Sorting Assistant. The only case of the Respondent is that they were engaged not as Temporary Sorting Assistants but as Outsiders Sorting Assistants and they cannot claim the status of Temporary Sorting Assistants.

13. The evidence given by MW1, the Superintendent of railway Mail Service "M" Division gives better view of the nature of work done. It can be inferred from the evidence of this witness that the petitioners must have been working on a day to day basis and not occasionally only as is claimed in the Counter Statements. It is seen from the evidence that sorting work was carried out in two shifts. Sorting work in the Postal Department is not something that will be coming occasionally only. MW1 has stated that in Katpadi Division where the petitioners were working about 40,000 ordinary posts and 3,000 to 4,000 registered posts have to be handled on a day. Apart from these are the Speed Posts and some Money Orders. The case in the Counter Statement that it was only during leave vacancies outsiders were engaged is the case put forth by MW1 also. This witness has stated during his cross-examination that Attendance Register was not maintained at all for Outsider Sorting Assistants. However, the Counter Statement admits that they were also signing Attendance Register.

14. There is a specific evidence given by all the petitioners that they were engaged and they were working continuously though they were paid daily wages on monthly basis. The petitioners have discharged the burden of proving that they were in continuous engagement and were doing work of permanent nature through that oral evidence. In that case it is for the Respondents to prove that they were not engaged continuously. The documents regarding the engagement would all be with the Respondents. Such documents are not produced. The petitioners have approached the Labour Commissioner immediately after they were denied work. The case that is put forth by MW1 is that the documents in question must have been weeded out after expiry of the period for which they are to be kept. However, even those documents immediately prior to the denial of work to the petitioners are not produced. It is admitted by the Respondents that the petitioners were not working from 27.03.2012. However, the case is that they stopped work on their own. On the other hand, the case of all the petitioners is that they made some demand and it was as a consequence they were denied work. This seems more probable when the circumstances are considered. It is unlikely that all the petitioners stopped work on their own on the same date. Certainly, the petitioners must have been working continuously on a daily basis as the number of posts to be handled daily were voluminous. Even though the evidence of the petitioners in this respect is there, there is no rebuttal evidence from the side of the Respondents. The only documents produced by the Respondents are copies of some daily reports and money order receipts, mostly, of the period after the dispute was raised. These documents are not of any use in discharging the burden that has shifted upon the Respondents. So it is to be presumed that the petitioners

must have been worked for more than 240 days in the 12 months preceding the date on which they were denied work and even on the previous years. There is no case for the Respondents that the petitioners were sent out after compliance with Section-25F of the Industrial Disputes Act. So denial of work amounts to retrenchment and is illegal in the absence of compliance with Section-25F.

15. The claim of the petitioners is not only for reinstatement but also for permanency. As stated this is not a subject matter of order of reference and cannot be considered. The only question is whether the petitioners can be reinstated in the same position in which they were.

16. In all the Identity Cards produced, the petitioners are described as Outsiders Sorting Assistants. All the petitioners have stated that they were not given any appointment order. It was not based on any Recruitment Rules they were taken. However, there is a fact that they were ousted from work even when work was available with the Respondents. This is clear from the evidence given by MW1. He has stated during his cross-examination that even now outsiders are engaged. That shows that work is still available with the Respondents. So the Respondents are in a position to take back the petitioners as Outsiders Sorting Assistants itself. The claim of the petitioners for backwages could not be entertained since they were working on daily wages but paid on monthly basis. If the petitioners are not willing to be reinstated in the same position they are to be compensated as contemplated under Section-25F of the ID Act. Almost all the petitioners have joined during the same period. The compensation payable is fixed as Rs. 2.00 lakhs for each of the petitioners. At the option of the petitioners, the Respondents are either to engage the petitioners in the same position or to pay compensation of Rs. 2.00 lakhs within two months of publication of the award.

17. Accordingly, the Respondents are directed to re-engage the petitioners or pay compensation @ Rs. 2.00 lakhs to each of the petitioners at their option within two months of the publication of the award.

An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined:**

For the 1<sup>st</sup> Party/: WW1, Sri R. Madhan Kumar  
Petitioner  
WW2, Sri S. Bhoopalan  
WW3, Sri S. Arun Kumar  
WW4, Sri M. Dilliganapathy  
WW5, Sri D. Mohan

WW6, Ms. G. Vadivukarasi  
WW7, Sri S. Palani  
WW8, Ms. R. Vidya  
WW9, Ms. S. Manjula  
WW10, Sri K. Jaisankar  
WW11, Sri M. Arun Kumar  
WW12, Ms. L. Banumathi  
WW13, Ms. J. Malarkodi  
WW14, Sri P. Sivasankari

For the 2<sup>nd</sup> Party/: MW1, Sri S. Soman  
Respondent

**Documents Marked:**

**On the Petitioner's side**

| Ext.No. | Date       | Description   |
|---------|------------|---|
| Ext.W1  | 29.03.2012 | Copy of the letter to Sub-Record Officer (Fax)                    |
| Ext.W2  | 10.04.2012 | Pay Sanction Order by the 2 <sup>nd</sup> Party                   |
| Ext.W3  | 16.02.2010 | Copy of the Attendance Register Record                            |
| Ext.W4  | 13.02.2008 | Recover letter K3/14/07   |
| Ext.W5  | 07.12.2005 | Vacancy position C.O. letter no. MLE/107-25/2005 dated 18.10.2005 |
| Ext.W6  | 10.04.2012 | Copy of the Identity Card   |
| Ext.W7  | -          | Copy of the Identity Card   |
| Ext.W8  | 08.01.2010 | Copy of the Attendance Register Record                            |
| Ext.W9  | 27.02.2012 | Copy of Money Pay Receipt   |
| Ext.W10 |            | Copy of Identity Card   |
| Ext.W11 | 19.07.2011 | Copy of the Attendance Register                                   |
| Ext.W12 | 11.07.2011 | Copy of the Memo (Original)                                       |
| Ext.W13 | 25.11.2011 | Copy of Attendance Register                                       |
| Ext.W14 | March 1997 | Provisional Certificate of R. Vidhya (ID No. 17/2014)             |
| Ext.W15 | 18.06.2013 | Reply counter filed by R. Vidhya (ID No. 17/2014)                 |
| Ext.W16 | 02.02.2010 | Copy of the Attendance Register                                   |

|         |            |   |  |
|---------|------------|---|--|
| Ext.W17 | 17.05.2002 | Higher Secondary Course Certificate of Manjula  | General Manager (Postal Accounts and Finance) through which charges paid to the outsiders who worked in this division. |
| Ext.W18 | 25.11.2011 | Copy of the Attendance Register   |  |
| Ext.W19 | 01.09.2003 | B.B.A. Provisional Certificate of K. Jaisankar (ID No. 20/2014)                                 |  |
| Ext.W20 | 14.05.2007 | Higher Secondary Course Certificate M. Arunkumar (ID No. 23/2014)                               |  |
| Ext.W21 | 11.02.2011 | Copy of Attendance Register   |  |
| Ext.W22 | 13.02.2011 | Copy of Attendance Register   |  |
| Ext.W23 | 24.02.2010 | Copy of the Attendance Register   |  |
| Ext.W24 | 21.02.2010 | Copy of Money Pay Receipt   |  |
| Ext.W25 | 25.05.1994 | Higher Secondary Course Certificate of L. Banumathi (ID No. 28/2014)                            |  |
| Ext.W26 | -          | Petition under Section-2A of the ID Act, 1947 filed before Conciliation Officer by L. Banumathi |  |
| Ext.W27 | 21.05.1990 | Higher Secondary Course Certificate of Malarkody (ID No. 29/2014)                               |  |
| Ext.W28 | 09.03.2011 | Copy of Attendance Register   |  |
| Ext.W29 | 27.05.1996 | Higher Secondary Course Certificate of Sivasankari (ID No. 30/2014)                             |  |

### On the Management's side

| <b>Ext.No.</b> | <b>Date</b>              | <b>Description</b>  |
|----------------|--------------------------|---|
| Ext.M1         | 01.02.2013 to 31.05.2013 | Copy of daily report for the period 01.02.2013 to 31.05.2013 as required by petitioner            |
| Ext.M2         | 01.06.2013 to 31.12.2013 | Copies of daily report for the period from 01.06.2013 to 31.12.2013 as required by the petitioner |
| Ext.M3         | 01.01.2014 to 30.04.2014 | Copies of daily report for the period from 01.01.2014 to 30.04.2014 as required by the petitioner |
| Ext.M4         | 01.05.2014 to 31.08.2014 | Copies of daily report for the period from 1.05.2014 to 31.08.2014 as required by petitioner      |
| Ext.M5         | February 2012            | Copies of Money Paid Receipts obtained from the   |

|        |            |   |
|--------|------------|---|
| Ext.M6 | March 2012 | Copies of Money Paid Receipts obtain from the General Manager (Postal Accounts and Finance) through which charges paid to the outsiders who worked in this division |
|--------|------------|---|

नई दिल्ली, 9 फरवरी, 2016

**का.आ. 295.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर आर हॉस्पिटल (आर्मी हॉस्पिटल) के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 42/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/02/2016 को प्राप्त हुआ था।

[सं. एल-42012/106/2011-आई आर (डीयू) ]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th February, 2016

**S.O. 295.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of RR Hospital (Army Hospital) & others and their workmen, which was received by the Central Government on 08-02-2016.

[No. L-42012/106/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

### **ANNEXURE**

**IN THE COURT OF SHRIAVTAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT  
NO.1, KARKARDOOMA COURT COMPLEX, DELHI**

**ID No. 42/2012**

Shri Ramesh & 5 others,  
C/o Samajwadi Karamchari Union,  
D-212, Gali No.10, Jagatpuri,  
Mandoli Road, Shahdara,  
Delhi 001 093

.....Workman

**Versus**

1. The Medical Superintendent,  
RR Hospital (Army Hospital),  
Near Subroto Park,  
Dhaula Kuan, Delhi Cantt.  
New Delhi
2. Shri Kishan Lal Aggarwal,  
Canteen Contractor,  
RR Hospital,  
Near Subroto Park,  
Dhaula Kuan, Delhi Cantt.,  
New Delhi
3. Shri B.M. Bansal, S/o Shri R.A. Bansal,  
R/o WZ-266, Gali No.9,  
Lajwanti Garden,  
Delhi 110040

## AWARD

This case was referred to this Tribunal for adjudication by Government vide letter No.L-42012/106/2011-IR(DU) dated 15.02.2012 and the terms of reference are as under:

“Whether the action of the management of M/s Kishan Lal Aggarwal, a Canteen Contractor of R.R. Hospital (Army Hospital), New Delhi in terminating the services of the workman S/Shri Ramesh, Sheelu, Pradeep, Umesh, Sonveer and Bablu with effect from 10.07.2008 is legal and justified? What relief the workman are entitled to and from which date?”

2. Both the parties were issued notices and upon appearance, workman herein filed statement of claim wherein it is averred that Kishan Lal Aggarwal(in short Respondent No.2) has been engaged by the Medical Superintendent of R.R. Hospital(in short Respondent No.1) for running canteen/cafeteria for Respondent No.1. Both Shri Kishan Lal Aggarwal and Shri B.M. Bansal were looking after, managing and controlling the affairs of the canteen. Respondent No.1 is the principal employer whereas Respondent No.2 is an agent who was working for Respondent No.1. Workman herein were appointed by Respondent No.2 and they were issued ID cards. They were performing their duties sincerely, diligently with full devotion and dedication. Workmen herein were not issued appointment letters, wage slip nor were they covered under ESIC and EPF Scheme. Workmen were not paid as per Minimum Wages Act. However, they were provided free meal twice a day , besides boarding and lodging. Wages of the workman, namely S/Shri Ramesh, Sheelu, Pradeep and Umesh were not paid for six months, for the period from January 2008 to June 2008. During this period, Shri Ramesh was given only Rs.3500.00, Shri Sheelu Rs.2000, Shri Pradeep Rs.5000.00 and Shri Umesh Rs.1000.00 as out of pocket expenses. The workmen and their family members were hard pressed due to non-payment of wages.

The workmen presented for duty on 10.07.2008 and Respondent No.2 terminated services of the workmen by way of refusal, without any notice. Respondent No.1 was having overall control over Respondent No.2 and it is also the duty of Respondent No.1 to secure payment of monthly wages to the workman herein.

3. Written statement was filed by Respondent No.1 taking preliminary objections that Respondent No.1 has been served wrongly. Respondent No.1 has given space to Shri Kishan Lal Aggarwal, proprietor and license was executed 01.04.2007 to allow the licensee to use and occupy the said premises mentioned in the deed. Shri Kishan Lal Aggarwal was the proprietor of the business to sell tea, coffee etc. Respondent No.1 did not have any control over the workmen herein and there was no relationship of employer and employee between Respondent No.1 and the workmen. When the complaint was filed by the claimant before the Regional Labour Commissioner, claimants did not have any complaint against the answering respondent. Respondent No.1 had denied the other averments contained in the statement of claim. It is also denied specifically that Respondent No.2 was appointed as agent of the answering respondent to engage any labour on behalf of the respondent. There was no application of the answering respondent to regulate conditions of services of the claimant.

4. It is necessary to point out here that an application was moved on behalf of the workman herein for impleading Shri B.M. Bansal as a party, and the same was allowed by my predecessor on 22.05.2012 and reply was filed by them, who in fact is the canteen contractor at present at RR Hospital Daula Kuan and Shri B.M. Bansal has been running the canteen on contract basis with effect from 01.04.2010. Therefore, workmen herein have wrongly impleaded Shri B.M. Bansal as a party. It is also alleged that there is no relationship of employer and employee between the workmen and the answering Respondent No.2. It is alleged that to the knowledge of Respondent No.2, Shri Kishan Lal Aggarwal, canteen contractor used to engage the workman in its establishment for a limited period and for fixed tenure and services of the workman were duly covered by proviso of Section 2(oo)(bb) of the Industrial Disputes Act, 1947 (in short the Act) and the same has come to an end with the afflux of time. Respondent No.2, on merits denied material averments contained in the statement of claim and alleged that Respondent No.2 has no role to play nor any relief can be granted to the claimant from Respondent No. 2.

5. Against this factual background, my learned predecessor observed that no specific issue is required to be framed except the one referred for adjudication to this Tribunal by way of reference under Section 10 of the Act.

6. The workmen filed affidavits of S/Shri Ramesh, Sheelu, Pradeep, Umesh, Sonveer and Bablu by way of evidence. Workmen were granted several opportunities to adduce evidence in support of their claim. However, it is clear from the record that more than two dozen adjournments were granted to the workman, but they have not entered the witness box for the purpose of cross, examination, as such, these affidavits cannot be taken into consideration as a piece of evidence in support of their statement of claim.

7. Management, in order to rebut the case of the claimant examined Shri B.M.Bansal as MW1 and his affidavit is Ex.MW1/A, which is on the same lines as has been taken in the reply. It is clear from perusal of the affidavit that Shri B.M. Bansal has alleged himself to the licensee against payment of rent with effect from April 2009 in respect of the canteen premises belonging to Respondent No.1, RR Hospital, Daula Kuan, Delhi. There are averments in the affidavit that Shri Kishan Lal Aggarwal was his brother in law and deponent used to visit and help him at his work place. Shri Aggarwal was the licensee in respect of the canteen premises till 31.03.2009 and thereafter Shri B.M. Bansal, MW1 had become the licensee. Shri Aggarwal had appointed Shri Hari Om Gupta to maintain and supervise the activities of the canteen but none of the claimants were employed by Respondent No.2 at any point of time for the purpose of the canteen. Shri Aggarwal used to maintain proper record of the employment.

8. Shri B.M.Bansal has also proved document Ex.MW1/1 which is temporary agreement of employment between the workmen S/Shri Pradeep and Shri Kishan Lal Aggarwal. He has also tendered extract of attendance register Ex.MW1/2 in respect of the employees working in the canteen. Document Ex.MW1/3 further shows that Shri Kishan Lal Aggarwal was running the canteen as licensee during the year 2008 and was paying wages to the workmen employed by him.

9. Major Tejvir was examined as MW2, whose affidavit is Ex.MW2/A. This witness has appeared on behalf of RR Hospital, i.e. Respondent No.1. It is clear from perusal of the affidavit, that Respondent No.1 has clearly averred that RR Hospital has given premises on license to one Shri Kishan Lal Aggarwal with whom license deed was executed on 01.04.2007, copy of which Ex.MW1/1. Further there was no relationship of employer and employee between Respondent No.1 and the workmen herein. RR Hospital never advertised for engagement of labour in the hospital canteen. No letter of appointment was issued by RR Hospital to the workmen herein nor any service record was maintained by RR Hospital of the said

workmen as they were not directly or indirectly employees of RR Hospital, Daula Kuan, New Delhi.

10. It is clear from resume of evidence on record that the workmen herein in fact were engaged by Shri Kishan Lal Aggarwal from April 2008 onwards and the workmen at the time in the year 2008 were employed by them as is clear from documents Ex.MW1/2 as well as Ex.MW1/3, which bears signatures of some of the workmen as well as Shri Kishan Lal Aggarwal, the canteen contractor.

11. Workmen herein have not adduced any evidence in support of the statement of claim inasmuch as they have simply filed their affidavit before this Tribunal but never turned up to make deposition on oath. It is settled law that merely filing of an affidavit would not amount to evidence in the eyes of law and affidavit can be read in evidence only if proper opportunity is granted to the opposite party to cross examine the witness who is making deposition by way of affidavit before the Tribunal. It is further clear from perusal of the agreement/ license deed Ex. MW1/1 that RR Hospital Head Quarter Delhi has given the requisite space for running of canteen to Shri Kishan Lal Aggarwal in the hospital complex. There is no mention in this agreement regarding engagement of any labour or workmen. Rather, from tenor of the agreement, it is clear that the licensee shall use the space for sale of tea, coffee and soft drinks for the benefit of defence personnel and their families. Option has been given to the licensee to renew the license and the licensee shall not be entitled to sublet the canteen to any other person. It is clear from the schedule attached with the license that the same was allowed from 01.04.2007 to 31.03.2008 and the monthly license fee was Rs.10,000.00. Stand of the workmen herein before the Regional Labour Commissioner was not that they were directly employees of Respondent No.1, RR Hospital, Head Quarter, Delhi. It is further clear from perusal of clause 3 of the letter of employment Ex.MW1/1 that employment was for a fixed period from 12.05.2008 to 09.07.2008 and fixed wages payable to workmen is Rs.2700.00 per month. This agreement also bears signatures of one of the workmen, Shri Pradeep. Similarly, there are other letters of appointment (temporary) of Shri Umesh, Somveer etc.

12. As discussed above, workmen herein did not depose before this Tribunal so as to prove the averments made in the statement of claim or their affidavit; as such, this Tribunal is left with the evidence of the management only. Letter of employment (temporary) shows that they were given employment for a fixed period and as such, there is no question of service of any notice in terms of Section 25F of the Act before their termination. Rather, their services have never been terminated and after expiry of period of their employment, workmen herein were no more in service. In the case of Christopher Minj Vs.

Andaman and Nicobar Administration & Othrs (2016) LLR 93, while dealing with the question of termination of such an employee who was appointed for a specific period, it was held by the Hon'ble High Court that it would not amount to retrenchment. In the said case also, there was separate contract of employment for specific period and it was held that their services would stand terminated ipso facto on expiry of such period and in such a situation, provisions of Section 2(oo) Clause (bb) of the Act would not be applicable and termination of services of such a workman after the expiry of the said period, would not amount to retrenchment.

13. As a result of the aforementioned discussion, it is held that termination of services of the workmen herein by the management (Kishan Lal Aggarwal) is not at all illegal and the same is justified and the workmen herein are held to be not entitled for any relief of reinstatement or payment of back wages etc. The reference is, therefore, answered in favour of the management and against the workman. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : February 1, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 9 फरवरी, 2016

**का.आ. 296.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर आर हॉस्पिटल (आर्मी हॉस्पिटल) के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 41/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/02/2016 को प्राप्त हुआ था।**

[सं. एल-42012/107/2011-आई आर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th February, 2016

**S.O. 296 .—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of RR Hospital (Army Hospital) & others and their workmen, which was received by the Central Government on 08-02-2016.

[No. L-42012/107/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

## ANNEXURE

### IN THE COURT OF SHRI AVATAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 41/2012

Shri Ramesh & 9 others,  
C/o Samajwadi Karamchari Union,  
D-212, Gali No.10, Jagatpuri,  
Mandoli Road, Shahdara,  
Delhi 001 093

.....Workman

## Versus

1. The Medical Superintendent,  
RR Hospital (Army Hospital),  
Near Subroto Park,  
Dhaula Kuan, Delhi Cantt.  
New Delhi

2. Shri Kishan Lal Aggarwal,  
Canteen Contractor,  
RR Hospital,  
Near Subroto Park,  
Dhaula Kuan, Delhi Cantt.,  
New Delhi

3. Shri B.M. Bansal, S/o Shri R.A. Bansal,  
R/o WZ-266, Gali No.9,  
Lajwanti Garden,  
Delhi 110040

....Management

## AWARD

This case was referred to this Tribunal for adjudication by Government vide letter No.L-42012/107/2011-IR(DU) dated 15.02.2012 and the terms of reference are as under:

“Whether the action of the management of M/s Kishan Lal Aggarwal, a Canteen Contractor of R.R. Hospital (Army Hospital), New Delhi in terminating the services of the workman S/Shri Hariom Gupta, Rakesh Kumar, Deepu, Pritam, Satish Gupta, Umesh Kushwaha, Manoj Kumar, Rahul Gupta, Santosh and Awadesh with effect from 10.07.2008 is legal and justified? What relief the workman are entitled to and from which date?”

2. Both the parties were issued notices and upon appearance, workman herein filed statement of claim wherein it is averred that Kishan Lal Aggarwal(in short Respondent No.2) has been engaged by the Medical Superintendent of R.R.Hospital(in short Respondent No.1) for running canteen/cafeteria for Respondent No.1. Both Shri Kishan Lal Aggarwal and Shri B.M. Bansal were looking after, managing and controlling the affairs of the canteen. Respondent No.1 is the principal employer whereas Respondent No. 2 is an agent who was

working for Respondent No.1. Workmen herein were appointed by Respondent No. 2 and they were issued ID cards. They were performing their duties sincerely, diligently with full devotion and dedication. Workmen herein were not issued appointment letters, wage slip nor were they covered under ESIC and EPF Scheme. Workmen were not paid as per Minimum Wages Act. However, they were provided free meal twice a day, besides boarding and lodging. Wages of the workmen, namely S/Shri Hariom Gupta and Shri Rakesh Kumar were not paid for the period from January 2007 to June 2008, S/Shri Deepu, Satish, Rajul Gupta and Majoj were not paid for the period from January 2008 to June 2008, S/Shri Pritam and Awadesh were not paid wages for the period June 2007 to June 2008., Shri Umesh Kushwaha were not paid for the period from September 2007 to June 2008 and Shri Santosh for the period from March 2007 to June 2008. The workmen and their family members were hard pressed due to non-payment of wages. The workmen presented for duty on 10.07.2008 and Respondent No.2 terminated services of the workmen by way of refusal, without any notice. Respondent No.1 was having overall control over Respondent No.2 and it is also the duty of Respondent No.1 to secure payment of monthly wages to the workman herein.

3. Written statement was filed by Respondent No.1 taking preliminary objections that Respondent No.1 has been served wrongly. Respondent No.1 has given space to Shri Kishan Lal Aggarwal, proprietor and license was executed 01.04.2007 to allow the licensee to use and occupy the said premises mentioned in the deed. Shri Kishan Lal Aggarwal was the proprietor of the business to sell tea, coffee etc. Respondent No.1 did not have any control over the workmen herein and there was no relationship of employer and employee between Respondent No.1 and the workmen. When the complaint was filed by the claimant before the Regional Labour Commissioner, claimants did not have any complaint against the answering respondent. Respondent No.1 had denied the other averments contained in the statement of claim. It is also denied specifically that Respondent No.2 was appointed as agent of the answering respondent to engage any labour on behalf of the respondent. There was no application of the answering respondent to regulate conditions of services of the claimant.

4. It is necessary to point out here that an application was moved on behalf of the workman herein for impleading Shri B.M. Bansal as a party, and the same was allowed by my predecessor on 22.05.2012 and reply was filed by them, who in fact is the canteen contractor at present at RR Hospital Daula Kuan and Shri B.M. Bansal has been running the canteen on contract basis with effect from 01.04.2010. Therefore, workmen herein have wrongly impleaded Shri B.M. Bansal as a party. It is also alleged that there is no relationship of employer

and employee between the workmen and the answering Respondent No. 2. It is alleged that to the knowledge of Respondent No.2, Shri Kishan Lal Aggarwal, canteen contractor used to engage the workman in its establishment for a limited period and for fixed tenure and services of the workman were duly covered by proviso of Section 2(oo)(bb) of the Industrial Disputes Act, 1947 (in short the Act) and the same has come to an end with the afflux of time. Respondent No.2, on merits denied material averments contained in the statement of claim and alleged that Respondent No. 2 has no role to play nor any relief can be granted to the claimant from Respondent No. 2.

5. Against this factual background, my learned predecessor observed that no specific issue is required to be framed except the one referred for adjudication to this Tribunal by way of reference under Section 10 of the Act.

6. The workmen filed affidavits of S/Shri Hariom Gupta, Rakesh Kumar, Deepu, Pritam, Satish Gupta, Umesh Kushwaha, Rahul Gupta, Santosh and Awadesh by way of evidence. Workmen were granted several opportunities to adduce evidence in support of their claim. However, it is clear from the record that more than two dozen adjournments were granted to the workman, but they have not entered the witness box for the purpose of cross-examination, as such, these affidavits cannot be taken into consideration as a piece of evidence in support of their statement of claim.

7. Management, in order to rebut the case of the claimant examined Shri B.M. Bansal as MW1 and his affidavit is Ex.MW1/A, which is on the same lines as has been taken in the reply. It is clear from perusal of the affidavit that Shri B.M. Bansal has alleged himself to the licensee against payment of rent with effect from April 2009 in respect of the canteen premises belonging to Respondent No.1, RR Hospital, Daula Kuan, Delhi. There are averments in the affidavit that Shri Kishan Lal Aggarwal was his brother in law and deponent used to visit and help him at his work place. Shri Aggarwal was the licensee in respect of the canteen premises till 31.03.2009 and thereafter Shri B.M. Bansal, MW1 had become the licensee. Shri Aggarwal had appointed Shri Hari Om Gupta to maintain and supervise the activities of the canteen but none of the claimants were employed by Respondent No.2 at any point of time for the purpose of the canteen. Shri Aggarwal used to maintain proper record of the employment.

8. Shri B.M.Bansal has also proved document Ex.MW1/1 which is temporary agreement of employment between the workmen S/Shri Pradeep and Shri Kishan Lal Aggarwal. He has also tendered extract of attendance register Ex.MW1/2 in respect of the employees working in the canteen. Document Ex. MW1/

3 further shows that Shri Kishan Lal Aggarwal was running the canteen as licensee during the year 2008 and was paying wages to the workmen employed by him.

9. Major Tejvir was examined as MW2, whose affidavit is Ex.MW2/A. This witness has appeared on behalf of RR Hospital, i.e. Respondent No.1. It is clear from perusal of the affidavit, that Respondent No.1 has clearly averred that RR Hospital has given premises on license to one Shri Kishan Lal Aggarwal with whom license deed was executed on 01.04.2007, copy of which Ex.MW1/1. Further there was no relationship of employer and employee between Respondent No.1 and the workmen herein. RR Hospital never advertised for engagement of labour in the hospital canteen. No letter of appointment was issued by RR Hospital to the workmen herein nor any service record was maintained by RR Hospital of the said workmen as they were not directly or indirectly employees of RR Hospital, Daula Kuan, New Delhi.

10. It is clear from resume of evidence on record that the workmen herein in fact were engaged by Shri Kishan Lal Aggarwal from April 2008 onwards and the workmen at the time in the year 2008 were employed by them as is clear from documents Ex.MW1/2 as well as Ex.MW1/3, which bears signatures of some of the workmen as well as Shri Kishan Lal Aggarwal, the canteen contractor.

11. Workmen herein have not adduced any evidence in support of the statement of claim inasmuch as they have simply filed their affidavit before this Tribunal but never turned up to make deposition on oath. It is settled law that merely filing of an affidavit would not amount to evidence in the eyes of law and affidavit can be read in evidence only if proper opportunity is granted to the opposite party to cross-examine the witness who is making deposition by way of affidavit before the Tribunal. It is further clear from perusal of the agreement/ license deed Ex.MW1/1 that RR Hospital Head Quarter Delhi has given the requisite space for running of canteen to Shri Kishan Lal Aggarwal in the hospital complex. There is no mention in this agreement regarding engagement of any labour or workmen. Rather, from tenor of the agreement, it is clear that the licensee shall use the space for sale of tea, coffee and soft drinks for the benefit of defence personnel and their families. Option has been given to the licensee to renew the license and the licensee shall not be entitled to sublet the canteen to any other person. It is clear from the schedule attached with the license that the same was allowed from 01.04.2007 to 31.03.2008 and the monthly license fee was Rs.10,000.00. Stand of the workmen herein before the Regional Labour Commissioner was not that they were directly employees of Respondent No.1, RR Hospital, Head Quarter, Delhi. It is further clear from perusal of clause 3 of the letter of employment Ex.MW1/1 that employment was for a fixed period from 01.03.2008 to 09.07.2008 and fixed wages payable to workmen is

Rs.2700.00 per month. This agreement also bears signatures of one of the workmen, Shri Hariom Gupta. Similarly, there are other letters of appointment (temporary) of Shri Manoj Kumar, Satish Gupta, Rahul Gupta, Awdesh etc.

12. As discussed above, workmen herein did not depose before this Tribunal so as to prove the averments made in the statement of claim or their affidavit; as such, this Tribunal is left with the evidence of the management only. Letter of employment (temporary) shows that they were given employment for a fixed period and as such, there is no question of service of any notice in terms of Section 25F of the Act before their termination. Rather, their services have never been terminated and after expiry of period of their employment, workmen herein were no more in service. In the case of Christopher Minj Vs. Andaman and Nicobar Administration & Others (2016) LLR 93, while dealing with the question of termination of such an employee who was appointed for a specific period, it was held by the Hon'ble High Court that it would not amount to retrenchment. In the said case also, there was separate contract of employment for specific period and it was held that their services would stand terminated ipso facto on expiry of such period and in such a situation, provisions of Section 2(oo) Clause (bb) of the Act would not be applicable and termination of services of such a workman after the expiry of the said period, would not amount to retrenchment.

13. As a result of the aforementioned discussion, it is held that termination of services of the workmen herein by the management (Kishan Lal Aggarwal) is not at all illegal and the same is justified and the workmen herein are held to be not entitled for any relief of reinstatement or payment of back wages etc. The reference is, therefore, answered in favour of the management and against the workman. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : February 1, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 9 फरवरी, 2016

**का.आ. 297.—**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ सं. 197/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/02/2016 को प्राप्त हुआ था।

[सं. एल-12012/94/2010-आई आर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th February, 2016

**S.O. 297.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 197/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, which was received by the Central Government on 09-02-2016.

[No. L-12012/94/2010-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 197/2011**

**Registered on 5.7.2011**

Sh. Moti Lal S/o Sh. Ranjit r/o Village Mahuwala, Distt. Fatehabad.

....Petitioner

#### Versus

The Branch Manager, State Bank of India, Bhattu Kalan, District Fatehabad

....Respondent

#### APPEARANCES

For the workman: Sh. Arun Batra

For the Management: Sh. S.K.Gupta

#### Award

Passed on:-17.12.2015

Central Government vide Notification No. L-12012/94/2010-IR(B-I) Dated 27.5.2011, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of State Bank of India, Bhattu Kalan, District Fatehabad in terminating the services of Sh. Moti Lal S/o Sh. Ranjit w.e.f. 17.11.2009, is legal and justified? To what relief the workman is entitled? "

In response to the notice, the workmen appeared and submitted statement of claim pleading that he was appointed as canteen employee-cum-sewadar in August,

2007 with Respondent No.2. His services were terminated on 17.11.2009 without payment of retrenchment compensation or service of notice and termination of his services is illegal.

Respondent bank filed written reply denying that workman was ever employed by it. The services of workman were availed by the local implementation committee for preparation and serving of tea. The bank has never paid any salary to him.

Parties were given opportunities to lead their evidence.

Sh. Moti Lal, the workman appeared in the witness box and filed his affidavit supporting his case as stated in the claim petition.

On the hand Sh. Raj Kumar was examined on behalf of the respondent bank who also filed his affidavit reiterating the stand of the respondent of the bank.

I have heard Sh. Arun Batra, counsel for the workman and Sh. S. K. Gupta, counsel for the respondent bank and perused the file.

It may be added at the outset that the workman did not produce any appointment letter nor any evidence was produced to show that he ever received any salary from the bank. Thus, it cannot be said that he was ever employed by the respondent bank.

It is the case of the workman that he was appointed as canteen employee. It is settled law that the canteen employees engaged in the various branches of the bank are not employees of the bank. Reliance may be placed in case SBI and Ors. Vs. SBI Canteen Employees Union & Ors reported in (2000)ILLJ1441SC when it held in para 41 of the judgement as follow:-

"We, therefore, hold that employees the canteens which are run at various branches by the Local Implementation Committees as per the welfare scheme framed by the SBI would not become employees of the Bank as the Bank is not having any statutory or contractual obligation or obligation arising under the Award to run such canteens."

Thus the workman cannot claim himself to be employee of the bank.

In view of the above circumstances, it cannot be said that the services of the workman were terminated by the Respondent Bank as he was not its employee and the workman is not entitled for any relief.

Let hard and soft copy of the award be sent to the Central Government for information and further necessary action.

KEWAL KRISHAN, Presiding Officer,

नई दिल्ली, 9 फरवरी, 2016

**का.आ. 298.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, चण्डीगढ़ के पंचाट (संदर्भ सं. 365/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/02/2016 को प्राप्त हुआ था।

[सं. एल-12012/13/2000-आई आर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th February, 2016

**S.O. 298.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 365/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 09-02-2016.

[No. L-12012/13/2000-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 365/2005**

**Registered on 18. 8. 2005**

Sh. R.S. Swamy, through General Secretary, State Bank of India Staff Congress, 1304, Sector 23/B, Chandigarh

....Petitioner

#### Versus

1. Asstt. General Manager, State Bank of India, Region-1, Zonal Office, Punjab, Sector 17, Chandigarh.

....Respondent

#### APPEARANCES

For the workman: Sh. Raj Kaushik

For the Management: Sh. S.K.Gupta

#### AWARD

Passed on:-16.12.2015

Central Government vide Notification No. L-12012/13/2000 IR(B-I) Dated 14.06.2001, by exercising

its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of State Bank of India, Chandigarh to impose the penalty for stoppage of one increment of Shri R.S. Swamy after conducting an enquiry is justified? If not, what relief the workman concerned is entitled?"

In response to the notice, the workmen appeared and submitted statement of claim to which written statement was filed.

The facts, emerging, are that workman was posted as Head Assistant in the respondent bank. He was charge-sheeted on 1.5.1995 for receiving Rupees 30000 from Sh. Mukhtar Singh for sending his son abroad and thereby conducted a misconduct. Charge-sheet was served on the workman who filed reply. An Enquiry Officer was appointed, who after recording the evidence held that charges were proved against the workman. Consequently the Punishing Authority imposed the penalty of bringing him down by one stage in the scale of pay for one year without cumulative effect.

Now, according to the workman, the previous Disciplinary Authority advised to drop the charges and it was at the instance of Mr. Aneja, Asstt. General Manager against whom a complaint was lodged, who ordered enquiry which was conducted against the principles of natural justice and he was not allowed to cross examine the witness. The appeal preferred by him was dismissed without application of mind.

According to respondent management, charges were never dropped and allegation against Mr. Aneja are false. A fair and proper enquiry was conducted and on the basis of same, punishment has correctly been awarded.

I have heard Sh. Raj Kaushik, counsel for the workman and Sh. S. K. Gupta, counsel for the respondent bank and perused the file.

A perusal of enquiry file shows that the charge-sheet was duly served on the workman and witnesses were examined in his presence. Even the workman has engaged a defence representative. It cannot be said that he was not afforded proper opportunity to defend himself.

The Enquiry Officer, after scrutiny of evidence, clearly came to conclusion that the workman had received Rs.30,000 from Sh. Mukhtar Singh for sending his son abroad. Nothing has been pointed out that any rule or regulation was violated while conducting the enquiry. Thus, it is held that the enquiry conducted in the present case is fair and proper.

It was argued by Mr. Raj Kaushik, counsel for the workman that the punishment awarded is harsh and same

be reduced. It may be added that the workman has already taken voluntarily retirement. Considering the gravity of the charges, it cannot be said that the punishment awarded is not proper and the same do not call for any interference.

In result, it is held that the action of the respondent management in imposing the punishment on the workman is justified and the workman is not entitled for any relief.

Let hard and soft copy of the award be sent to the Central Government for information and further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 9 फरवरी, 2016

**का.आ. 299.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण चण्डीगढ़ के पंचाट (संदर्भ सं. 679/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/02/2016 को प्राप्त हुआ था।

[सं. एल-12012/283/2003-आई आर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th February, 2016

**S.O. 299.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 679/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 09-02-2016.

[No. L-12012/283/2003-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** Sri Kewal Krishan, Presiding Officer

**Case No. I.D. No. 679/2005**

**Registered on 25. 8. 2005**

Sh. S.P. Sodhi, as represented by General Secretary, SBI Staff Congress 3030/1, Sector 44-D, Chandigarh.

...Petitioner

**Versus**

State Bank of India, The Asstt. Manager, State Bank of India, Region-IV, Zonal Office, Punjab, Sector 17, Chandigarh-160017.

...Respondent

#### APPEARANCES

For the workman : Sh. Raj Kaushik, Adv.  
For the Management : Sh. S.K. Gupta, Adv.

#### Award

Passed on:-18.12.2015

Vide Order No.L-12012/283/2003-IR(B-I), dated 05.04.2004 the Central Government in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Disputes Act, 1947 (in short Act) has referred the following industrial dispute for adjudication to this Tribunal.

“Whether the action of the management of State Bank of India, Chandigarh, in imposing the punishment of lowering the basic pay of Sh. S.P. Sodhi, Spl. Assistant by one stage with cumulative effect, without following the principles of natural justice during the enquiry proceedings is just and legal? If not, to what relief the concerned workman is entitled to and from which date?”

In response to the notice, the workman appeared and submitted statement of claim, to which written reply was filed.

The facts in brief are that the workman was posted as Special Assistant at Rajpura. He was served with a charge-sheet that he collected donation from the bank account holders, in a coercive manner on the promise of inserting their advertisements in a Magazine “Banking Era” without taking banks approval. Being not satisfied with his reply, an enquiry officer was appointed, who after conducting the enquiry did not find the charges as proved. But the Disciplinary Authority did not agree with the report and obtained report of handwriting expert. It came to the conclusion that cheques were filled by the workman and accordingly awarded the punishment by lowering the workman to his basic pay by one stage with cumulative effect.

The respondent-management filed reply pleading that a due charge sheet was served on the workman for committing a misconduct and regular enquiry was held. But the enquiry officer exonerated the workman to which the Disciplinary Authority did not agree. Disciplinary Authority obtained a report of the handwriting expert and accordingly, awarded the punishment which is legal and valid and do not call for any interference.

I have heard Sh. Raj Kaushik for the workman and Sh. S.K. Gupta for the management.

It may be added at the outset that the action of the Disciplinary Authority holding the workman to be guilty of the charges was set aside vide order dated 19.11.2014 and the respondent-management was allowed to prove the charges by leading evidence in the Court. The respondent-management was given 6 months time to lead its evidence. The said order vide which the enquiry was held not to be fair and proper was not challenged and therefore the same has become final.

The respondent-management again did not lead any evidence in support of the charges within the stipulated time given to it to prove the charges and respondent-management relied on an affidavit of Sh. Anil Mangol which was already on the file.

Since the respondent-management did not lead any evidence in the Court to prove the charges against the workman and therefore, it cannot be said that the workman was guilty of collecting donations from the bank account holders in a coercive manner and when it is so, the respondent-management was not right in imposing the punishment awarded to the workman.

In result, the reference is decided holding that the action of the respondent-management in imposing the punishment of lowering the basic pay of the workman by one stage with cumulative effect is illegal and unjust and the workman is entitled to full pay as per his entitlement.

Let hard and soft copy of the award be sent to the Central Government for information and further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 9 फरवरी, 2016

**का.आ. 300.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ सं. 180/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/02/2016 को प्राप्त हुआ था।

[सं. एल-12012/263/2001-आई आर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th February, 2016

**S.O. 300.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 180/2001) of the Central Government Industrial Tribunal-cum-Labour Court Jabalpur as shown in the Annexure in the Industrial Dispute between the management of State Bank

of India and their workmen, received by the Central Government on 09-02-2016.

[No. L-12012/263/2001-IR(B-I)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/180/2001

Shri Baijnath Prasad Patel,  
S/o Prem Narayan Prasad Patel,  
Old Cherai Cantt. Colony,  
Sagar (MP)

...Workman

#### Versus

Chief Manager,  
State Bank of India,  
Civil Lines Branch,  
Sagar (MP)

..Management

#### AWARD

Passed on this 11<sup>th</sup> day of December, 2015

1. As per letter dated 27-11-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/263/2001-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of State Bank of India, Sagar (MP) in terminating the services of Shri Baijnath Prasad Patel S/o shri Prem Narayan Pal Patel w.e.f. 26-7-93 is justified? If not, to what relief he is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 3/1 to 3/4. Case of Ist party workman is that he was appointed as waterman on daily wages from 2-7-90 by 2<sup>nd</sup> party Bank. He was also engaged in Gujarati Bazar branch from 1-1-1991 to 2-5-91, civil line branch from 12-7-92 to 26-7-93. He worked with honesty. His services are terminated in violation of Section 25-F of ID Act. To avoid regularization and absorption in service, after completing qualifying period, workman was terminated amounts to unfair labour practice. His termination is illegal retrenchment. 2<sup>nd</sup> party has violated section 25-F, N of ID Act.

3. Ist party workman further submits that on 5-11-92, he was interviewed, the merit list or waiting list was not disclosed. The panel was not cancelled in the year 1997. Workman was denied absorption in service. The termination of his service is illegal. On such ground, workman prays for his reinstatement with backwages.

4. 2<sup>nd</sup> party filed Written Statement at Page 8/1 to 8/9 opposing claim of Ist party workman. 2<sup>nd</sup> party has admitted engagement of workman 48 days during July 90 to Sept.90, 85 days during Jan-91 to May 91, 110 days during July 1992 to Dec-1982 and 129 days during Jan-93 to July 93. 2<sup>nd</sup> party submits that workman was not appointed following recruitment process. He was engaged for casual work as per exigencies. Workman had not completed 240 days continuous service. Engagement of workman on daily wages came to end at end of the day. Workman was not under obligation to come for work on next day. Workman was not terminated. His disengagement is covered under Section 2(oo)(bb) of ID Act.

5. 2<sup>nd</sup> party further submits that as per settlement dated 17-11-87, 16-7-88, 28-10-88, 9-7-91, 30-7-96, 2-2-97, workman was allowed chance. Workman was interviewed. His name was included in Waiting List much below. The workman couldnot be permanently appointed as there were no vacancies. The Waiting List lapsed in 1997. Workman has not completed 240 days continuous service. He is not covered as employee under section 25 B of ID Act. On all such contentions, 2<sup>nd</sup> party submits that workman is not entitled to reinstatement prayed by him.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of State Bank of India, Sagar (MP) in terminating the services of Shri Baij Nath Prasad Patel S/o Shri Prem Narayan Pal Patel is justified? In Negative w.e.f. 26-7-93

(ii) If not, what relief the workman is entitled to?" As per final order.

## REASONS

7. As per terms of reference, legality of services of Ist party workman is referred for adjudication. Claim for adjudication is not included in the terms of reference. Workman has challenged termination of his service for violation of section 25-F of ID Act. His claim is denied by management of 2<sup>nd</sup> party. Workman filed affidavit of his evidence supporting his contentions. He worked more than 240 days continuous service. He was working in the Gopalganj branch from 2-7-90 to 6-9-90, Gujarati Bazar branch from 1-1-1991 to 2-5-91, Civil Line branch from 12-7-92 to 26-7-93. His services were terminated without notice. He was not paid retrenchment compensation. The working days of Ist party workman are not disputed by 2<sup>nd</sup> party in Written Statement. Even in his cross-examination, Ist party workman says he worked for 48 days during July

to Sept.90 in Gopalganj branch. He worked for 85 days during January to May 1991 as messenger in said branch. He worked for 110 days in Civil Line branch during July to October 1992 and 129 days as messenger during January to July 1993 in civil line branch. The evidence about working days is not shattered in cross-examination of workman. the evidence of workman about he was called for interview, his name was included in Wait List, he was not absorbed in permanent service needs no detailed discussion as claim for regularization is not included in terms of reference.

8. Document Exhibit W-1 is application submitted by workman dated 15-10-92 giving the details. Exhibit W-2 is interview call received by him.

9. Evidence of management's witness K.Sridhar Rao is also clear that workman had worked in 48 days during July to Sept.90 in Gopalganj branch. He worked for 85 days during January to May, 1991, for 110 days in Civil Line branch during July to October 1992 and 129 days during January to July 1993 in civil line branch. Management's witness says workman had not continuously worked more than 240 days. Working days of workman from July 92 to June 93 comes about 220 days.

10. Learned counsel for Ist party workman Shri P.C.Chandak relies on ratio held in :

Case of Ram Kishan Gurjar versus State of Rajasthan reported in 2006-LAB.I.C.56. His Lordship of Rajasthan High Court dealing with Section 25-F of ID Act held that for calculation of continuous service, Sundays should be counted as actual working days.

If Sundays are calculated in actual working days of workman, his working days would be more than 240 days during 12 months preceding his termination. The services of workman are terminated without notice, he was not paid retrenchment compensation therefore termination of workman is illegal for violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Negative.

11. Point No. 2- In view of my finding in Point No.1, termination of services of workman is illegal, question arises whether Ist party is entitled for reinstatement with backwages. Workman in his cross says he had not received appointment letter, he claims ignorance whether he was appointed against vacant post of messenger. He claims ignorance whether Wait List lapsed in March 1997. Considering the workman was engaged on daily wages, appointment letter was not given to him, workman continuously worked from July 92 to July 93. Prior to it, he was working intermittently in 1990-91, compensation Rs.30,000 would be appropriate. Accordingly I record my finding in Point No. 2.

12. In the result, award is passed as under:-

(1) The action of the management of State Bank of India, Sagar (MP) in terminating the services of Shri Bajji Nath Prasad Patel S/o Shri Prem Narayan Pal Patel w.e.f. 26-7-93 is not proper and legal.

(2) 2<sup>nd</sup> party management is directed to pay compensation Rs.30,000/- to the workman.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

13. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 9 फरवरी, 2016

**का.आ. 301.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण नं. 1, दिल्ली के पंचाट (संदर्भ सं. 141/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 09/02/2016 को प्राप्त हुआ था।

[सं. एल-12012/21/2007-आईआर (बी-1)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 9th February, 2016

**S.O. 301.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 141/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, which was received by the Central Government on 09-02-2016.

[No. L-12012/21/2007-IR (B-I)]

P. K. VENUGOPAL, Desk Officer

#### ANNEXURE

**IN THE COURT OF SHRIAVATAR CHAND DOGRA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL CUM LABOUR COURT  
NO.1, KARKARDOOMA COURT COMPLEX, DELHI**

**ID No.141/2011**

Shri Vinod Dutta,  
C/o The General Secretary,  
State Bank of India Staff Association,  
2124/2, Hari Singh Nalwa Street No.58,  
Nai Wala Street, Katol Bagh,  
New Delhi

...Workman

Versus

1. The Deputy General Manager,  
State Bank of India, Chandni Chowk,  
Delhi

2. The General Manager (Network-I),  
State Bank of India,  
Local Head Office,  
11, Parliament Street,  
New Delhi – 110 001

...Management

#### AWARD

Brief facts giving rise to the present dispute are that a reference was received from Government of India vide letter No.12012/21/2007-IR(B-I) dated 31.05.2007 to the following effect:

“Whether the action of the management of State Bank of India, New Delhi in dismissing the services of Shri Vinod Dutta is justified? If not, to what relief the workman is entitled to?”

2. Notices were issued to both the parties. Thereafter, the workman herein filed statement of claim with the averments that the workman was a permanent employee of State Bank of India (in short the bank) and was posted at Chandni Chowk branch, Delhi. He was allegedly trapped in certain case, i.e. relating to issuance of cheque book and encashment of two cheques from savings bank account of one Shri Sarup Singh, holder of account No. 36779. Thereafter, he was placed under suspension vide letter dated 27.05.1997 by the Deputy General Manager of the bank, without issuance of any charge sheet. Letter of suspension does not say a word about future action to be taken by the bank in relation to result of the suspension.

3. It is further averred in the statement of claim that:

- (i) The suspension letter is No. PBD.21.81 dated 27.5.1997
- (ii) The bank issued the show cause letter No. PBD.43.24 dated 24.10.1997 by Chief Manager (PBD) Chandni Chowk branch, Delhi. The workman replied the said show cause vide his letter dated 21.11.1997 denying all the allegations as false, fabricated, baseless categorically etc.
- (iii) The bank issued charge sheet No. PBD.44.85 dated 28.2.1998 after about three months of reply to show cause by the workman. The charge sheet clearly indicate the predetermined idea of the bank to proceed departmentally as the very first line of charge sheet state “it has been decided to initiate disciplinary action against you on the following

charges. The bank should have sought the reply of the charges sheet before ordering the initiation of proceedings. The bank failed to even mention in the charges sheet that the reply of the show cause was "unsatisfactory", which is legal departmental procedure before proceeding further. But the bank arbitrarily and illegally without legal sanction acted in a way which is violation of principles of natural justice and provisions of bipartite and awards governing the service condition of the workman. The workman replied the charge sheet updated, which was received by the bank on 3.4.1998 as per the Bank's stamp on receipted copy, denying all the allegations.

- (iv) The bank thereafter for about a year before starting the enquiry as predetermined mention in the charge sheet and issued order of appointment of Enquiry Officer Shri Amarjeet Singh and Presenting officer Shri I.P.S. Bhatia. The Enquiry Officer started enquiry on 5.5.1999 and did not mention about the order of the Disciplinary Authority appointing him and the Presenting Officer in his proceedings on that day. There after, the Enquiry Officer & Presenting Officer were changed and Shri P.P. Suneja was appointed Enquiry Officer and Shri K.K. Vohra as Presenting Officer, which order is also not recorded in the proceedings of enquiry by the Enquiry Officer.
- (v) The bank produced the list of documents and witnesses at the time of enquiry only, though the said list along with documents should have been given to the workman at the time of issuance of show cause or charge sheet to enable him to prepare his proper defence on the bases of the alleged documents and witnesses at the time of giving reply to the said accusation. The bank has intentionally and malafidely did not give the said documents, as the same would have enabled the workman to give relevant reply to the show cause and charge sheet and in absence of the same, the bank has denied him the reasonable opportunity of defence and thus violated the principle of natural justice by issuing the vague, uncircumstantial and unspecific allegation charge sheets.
- (vi) The enquiry which started on 5.5.1999 concluded on 3.2.2001 Without cross examination of PW4. The produced Witnesses of the bank five, though the bank gave a list of six witnesses. PW.1 Smt. Prem Chhokraon page 42 of enquiry proceedings to P.O. question No. 2 has stated "Dutta ji phaink gaye kah gaye ki unke piche party aa rahi hai aur party aa gai". On page 43-45 she has stated the detailed about the alleged incident, which clearly prove that the workman is not involved anywhere in the episode at all. PW. 3 Shri Vinod Mehra was the Teller

Operator, who made the payment of the alleged two cheques. He has said On page 47 & 48 of proceeding that I have made the Payment of those two cheques after verifying the amount, Date, Signature and whether the cheque is in order or not and on page 48 he has stated that "yes I have taken the signature of the drawer in front of me at the back of withdrawal. On page 49 he has stated that the payment was taken by some one outsider of the Bank. PW 4 Shri Kashyap is the hand writing expert, who could not be crossed due to paucity of time with the Defence counsel. He deposed from page 63 to 65. PW5 is the Saving Bank Incharge Shri R.B. Sharma. He has stated on page 69 that he has verified the signature of the account holder on the application and also got another signature, which completely tallied and then gave the application to the account holder to go to the concerned authority for getting the cheque book. He has stated that the time when the application came to me was about 12 'o'clock. He has deposed from page 68 to 75. None of the witnesses have said that the workman was in any way involved in the said alleged episode. The entire Story has been cooked up in collusion between the Enquiry Officer. And the disciplinary authority in proving the charges, which as per enquiry proceedings cannot be proved as per evidence and documents.

- (vii) The workman produced the documents and report of the hand writing expert Shri M.R. Prabhu dated 9.11.2000, which was taken on record, but he was not allowed to be produced as defence witness by the Enquiry Officer.
- (viii) The Enquiry Officer submitted his report to the Disciplinary Authority on 13.3.2001 and the Disciplinary authority issued tentative decision dated 4.6.2003 to the charged Employee. The charged employee gave representation to the disciplinary authority on the tentative decision and raised objection and protest over the role of Enquiry Officer and violation of principles of natural justice and process of departmental enquiry procedure in proving the unproved charges by abusing his position and power and by traveling beyond his jurisdiction. The disciplinary authority granted him personal hearing for 14.7.2003. It took about two years to the disciplinary authority to issue the tentative decision after receipt of Enquiry Officer report dated 13.3.2001. The disciplinary authority failed to give reason-wise reply to the points of defence and finally imposed the punishment of dismissal vide order dated 31.12.2003.
- (ix) The workman preferred appeal against the order of the disciplinary authority dated 14.2.2004 and

personal hearing was fixed for 23.9.2005, where also vital points of law and procedure were raised but the appellate authority also did not give due consideration to the defence points of view with reasons so as to appear that justice will be given to workman. The authority rejected the appeal in a stereo type mechanism and the punishment of dismissal was confirmed, vide order dated 12.4.2006.

(x) The workman through the association filed the claim petition before the Conciliation Officer, Curzon Road, Delhi, which was replied by the bank on 21.9.2006 and the association replicated and the matter ended in failure and the conciliation officer submitted the report to the Ministry of Labour, Govt. of India, who in process referred the matter to this Hon'ble Tribunal for adjudication

(xi) That the bank has abruptly proved the charges without any basis on evidence and documents and the Enquiry Officer, Disciplinary Authority and Appellate Authority have failed to give reasons for inflicting punishment.

4. After failure of conciliation, matter was referred, matter was referred for adjudication by the Government of India in the manner stated above. Workman has challenged validity of the departmental proceedings on the following grounds:

- I. The bank failed to produce the original cheque issue register which can establish as to who has taken the cheque book.
- II. The bank did not give the list of documents with documents and witnesses at the time of issuance of show cause or charge sheet as required under the law, thus violated the provision of principles of natural justice and awards.
- III. The bank failed to mention the reply of the shown cause as unsatisfactory, while issuing the charge sheet to the workman.
- IV. The bank was predetermined to initiate the departmental proceeding against the workman as appear from the first line of charge sheet without even submitting the reply to it by the workman.
- V. The bank Enquiry Officer did not give proper opportunity to defence to cross examine the PW.4 Shri Kashyap, hand writing expert.
- VI. The Enquiry Officer did not allow the defence witness Shri Prabhu, the hand writing expert as par with the management expert.
- VII. The disciplinary authority took more than two years to Issue the tentative decision order after receipt of the Enquiry Officer report.

- VIII. None of the witnesses have stated the involvement of the workman in their deposition before the Enquiry Officer, who were presented by the management, either in taking the cheque book or payment of the alleged cheques (2) amounting Rs. 17000.00.
- IX. The Enquiry Officer has travelled beyond his jurisdiction and scope of Charge sheet as alleged and imported the substance on record.
- X. That the impugned punishment order is based on surprise and conjectures.
- XI. The Disciplinary authority and appellate authority failed to give reasons to the defence points of view raised in the reply to the tentative decision order in personal hearing. The appellate authority also did not give reasons to the defence. Points raised in appeal and personal hearing.
- XII. The bank was predetermined to punish the workman and the enquiry is falsely based Procedure.
- XIII. The charge sheet and show cause were vague and not specific to allegation and circumstances in absence of documents and witness and the workman was compelled to reply them, which was not proper.
- XIV. The grave injustice has been done to the workman by the Enquiry Officer Disciplinary Authority and the appellate authorities.
- XV. That fatal infirmities and illegalities have been committed in The whole process of departmental proceedings and orders thereto.
- XVI. The Enquiry Officer acted illegally and showed his pro-management bias in admitting all documents and rejecting defence witness.
- XVII. The bank has played foul play and managed the enquiry proceedings And thereafter actions to penalize the workman by hook or by Crook without caring for the rules, law, Precedents and principles of natural justices and thrown to winds, the enquiry procedures.
- XVIII. The bank did not produce Shri Sarup Singh SB Account holder enquiry. That the workman crave leave to add or supplement and petitioner during the proceedings in the interest of justice.
5. Finally, workman has prayed that an award be passed in favour of the workman by setting aside the order of punishment of dismissal by the Deputy General Manager on 31.12.2003 treating it to be illegal, unjust and workman to be given all consequential benefits, including salary etc.
6. Bank has contested the allegations contained in the statement of claim by filing written statement. In

preliminary objections, it is alleged that the dispute is devoid of any merit as the workman has committed acts of falsification of accounts, criminal breach of trust and misappropriation of money. Bank is depository of peoples trust. For the above act, charge sheet dated 28.02.1998 was issued against the workman herein as it was not in the interest of the institution to continue him in service. A full pledged domestic enquiry was conducted against the workman herein who was given full opportunity to defend his case. Principles of natural justice were completely followed. There is not even an iota of evidence or circumstances to prove that principles of natural justice are not followed. Charges leveled against the workman herein was fully explained to him and he was fully heard by the bank. It is because of these charges that the workman was dismissed from service. He has filed reply to the charge sheet and entire evidence has been considered properly by the bank. Bank also alleged that being a financial institution, very heavy duty is cast on it to maintain trust and confidence of the customer. Bank has denied the other material averments regarding violation of principles of natural justice etc. Bank, on merits, denied all the material averments and reiterated its stand taken in the preliminary objections. It is alleged that the punishment imposed upon the workman herein is proportionate to the misconduct proved against him. Bank has now lost faith in the workman.

7. Workman also filed replication to the written statement filed by the bank, wherein the workman has reiterated the stand taken in his statement of claim and denied material averments contained in the written statement. It is alleged that the workman was not involved in any fraud in respect of any saving bank of the customer while he was posted at Chandni Chowk branch nor has he forged signatures of any Sarup Singh in the Cheque Book Issue slip.

8. This reference petition was initially referred to CGIT No. 2 and thereafter the same was transferred vide order No. Z-22019/6/2007-IRC-II dated 30.03.2010 of Government of India to CGIT No.1, Karkardooma. Record also shows that earlier bank was proceeded ex-parte when matter was pending for disposal before CGIT No.2.

9. Against this factual background, my learned predecessor vide order dated 16.06.2011 held that domestic enquiry conducted by the bank is not in accordance with law and same is unfair as well as in violation of principles of natural justice. It was also observed that right of cross examination of second witness was not afforded to the workman herein, which has resulted in violation of principles of natural justice. Hence, enquiry conducted by the bank was held to be unfair and not proper. Since bank, in its written statement, has reserved its right to adduce evidence on merits in case enquiry is found to be unfair or against principles of natural justice, as such,

opportunity was given to the bank to adduce evidence on merits.

10. Bank, in support of its case, examined Shri Ajay Kumar, Manager (HR) as MW1, Shri Vinod Kumar Mehra as MW2 and Pt. Ashok Kumar Kashyap, Handwriting Expert as MW3 and tendered in evidence certain documents. Shri Dutta examined himself as WW1 and also relied on some documents. It is clear from perusal of the charge sheet dated Ex.WW1/4 that disciplinary proceedings were initiated by the bank against the workman herein on the following charges:

- (i) You forged the signatures of the drawer on the request letter and got the cheque book issued on Saving Bank account No. 36779 of Shri Sarup Singh on 20.03.1997.
- (ii) You misused the cheque book so issued and purportedly forged signatures on two cheques No.175903 and 175904 for Rs. 9500.00 and Rs. 6500.00 respectively on 20.03.1997 and 21.03.1997 and received payments, thus benefiting yourself by withdrawing Rs.17,000.00 from the Saving Bank Account No. 36779 of Shri Sarup Singh fraudulently.
- (iii) One of the above two cheques was even posted by you although you were not concerned with the posting of vouchers on that seat.
- (iv) You also passed these two cheques for Rs. 9500.00 and Rs. 7500.00 for payment bearing forged signatures, while officiating as Head Clerk for passing instruments paid by Teller on counter No.18 on 20.03.1997 and 21.03.1997. Even you did not notice the fact that the account is dormant, thus depriving the Bank with an amount of Rs.17,000.00 (Rupees seventeen thousand only)
- (v) It has been established by the Handwriting Expert that signatures on Cheque Requisition letter and also on two cheques agree with your handwriting beyond doubt.
- (vi) On scrutiny of your past records, we further observe that you have been charge sheeted on two occasions, on 07.06.1990 and 11.07.1985 for committing serious irregularities with an ulterior motive.

11. Workman herein has also filed reply Ex.WW1/5 to the above charge sheet wherein allegations mentioned in the charge sheet have been denied by him. He has specifically denied that he has either received any payment or forged signatures in cheque book issue register in respect of saving bank No. 36779 of Shri Sarup Singh and the cheque under reference might have been posted by him in ordinary course of business on the instructions of his senior/superior as the permanent clerk was on leave. These cheques were already paid at the Teller Counter. Since domestic enquiry conducted by the bank has been

held to be unfair and against principles of natural justice, as such onus has shifted upon the bank to prove veracity of the allegations leveled in the charge sheet against the workman herein.

12. It is clear from resume of evidence on record that gravamen of the case against the workman herein is that he has forged the signatures of Shri Swarup Singh on the letter of request and thereafter the workman herein fraudulently got issued cheque book in respect of Saving Fund Account No.36779 being maintained in the name of Shri Sarup Singh. As a result of the above cheque book, the workman herein forged the signatures of Shri Sarup Singh on two cheques bearing No. 175903 and 175904 for Rs. 9500.00 and Rs.7500.00 Ex.MW3/5 and Ex. MW3/6 respectively. As per the case of the management, the workman herein was officiating as Head Cashier on 20.03.1997 and 21.03.1997 and he manipulated passing of the above two cheques before forging signatures.

13. During the course of arguments, much emphasis was laid by the management upon the report of the Handwriting Expert Ex.MW3/1 as well as past conduct of the workman herein. A careful appraisal of the report of the Handwriting Expert., Pt. Ashok Kashyap shows that the expert in his final opinion has observed that disputed signatures marked Q1, Q2 and Q3 on the above cheques which are Q7 and Q8, are forged and writings on the above two cheques as well as standard writings obtained from the workman herein are the same.

14. Per contra, Shri R.S. Saini appearing for the workman strongly urged that the management has badly failed to prove the case of forgery or any kind of misconduct against the workman herein. Charges levelled in the charge sheet dated 28.02.1998 are vague and unspecific and workman has given detailed reply to the same, which was not duly considered. Management has acted in a biased manner and even before considering reply decided to initiate departmental enquiry against the workman herein, which is violative of principles of natural justice and provisions of Article 311 of the Constitution of India. It was also urged that since the domestic enquiry conducted by the bank has been held to be unfair and against principles of natural justice, as such onus is very heavy upon the management to bring cogent and reliable evidence on record so as to prove the charges against the workman herein. In this regard, attention of the court was also drawn to the statement of MW2 Shri Vinod Kumar Mehra, who has not support the case of the management on vital points. So far as statement of Shri Ajay Kumar, MW1 is concerned, it was pointed out that at the relevant time in the year 1997, he was not posted at Chandni Chowk branch; rather he was posted at Subroto Park branch of the bank. Lastly, on behalf of the workman, it was suggested that the original complainant never turned up to depose against the workman, which also shows that

the bank has filed to prove the charge of cheating as well as forgery etc.

15. Having heard the learned authorized representatives of the parties and on perusal of record, particularly evidence adduced after holding domestic enquiry to be in violation of principles of natural justice, I am of the view that the Bank has not succeeded in proving charges against the workman as required under the law.

16. It is not out of place to mention here that disciplinary proceedings are not criminal trial as the same are quasi judicial or quasi criminal in nature. Strict principles of proof beyond reasonable doubt as is applicable in criminal case does not apply to the departmental enquiries which are to be proved by principles of preponderance of probability. However, the Court is to see whether there is any evidence on record to reach a conclusion that the delinquent has committed the misconduct, the said conclusion is to be reached on the basis of test of what a prudent man would have done. In this regard, on behalf of the management, reliance was placed upon the case of State of Haryana vs. Ratan Singh (1997) 2 SCC 491 wherein it was held that in a domestic enquiry the strict and sophisticated rules of evidence under the [Indian Evidence Act](#) may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the [Indian Evidence Act](#).

17. In the case in hand, it was not disputed by either of the parties that at the time of issuance of cheque book to any customer who is holding a savings account in any bank, normal practice is to obtain an application from the holder of the account and thereafter cheque book is issued by the saving fund incharge or the official meant for the purpose to the said account holder. In the case in hand, copy of said application is Ex.W2/W4, which also bears signatures of Shri Sarup Singh. It would have been quite profitable had Shri Sarup Singh been examined by the bank, who in fact is the complainant and the aggrieved person. Bank has not produced vital documents, i.e. register meant for obtaining signatures of the account holder at the time of issuance of cheque book. In this regard, it is appropriate to refer to the statement of MW2, Shri Vinod Kumar Mehra, who was cross-examined at length by the workman. He has stated in his cross-examination that payment normally is received by the party or any person appearing on behalf of the party at the Teller counter, after the cheque is through. There are certain guidelines contained in Ex.MW2/W1 regarding the mode of payment to customer by the Teller. He has admitted that whenever a customer or an account holder applies for

issuance of cheque book, he is to submit an application, which is normally presented to the In-charge of Saving Fund accounts. Signatures of the customer on the said application is compared with the specimen signatures on the account opening form. If the signatures do not tally, then the official again obtains signatures, in his presence, of the customer applying for issuance of cheque book.

18. In the case in hand, signatures of the customer were not obtained and the cheque book was issued to the said customer. This witness however clarified that Shri Babu Ram Sharma was the Savings Fund In-charge seat on 20.03.1997 and MW2/W3 is the photocopy of the register which bears the initials of Shri Babu Ram Sharma, which goes to show that the cheque book was issued by Shri Babu Ram Sharma to the customer who has applied for issuance of the cheque book. Shri Vinod Kumar Mehra, MW2 further clarified that the original of application Ex.MW2/W4 was written by Shri Sarup Singh. He further clarified that on this application, signatures of Shri Sarup Singh were obtained again by the said official (Shri Babu Ram Sharma.) Shri Vinod Kumar Mehra MW2 again clarified that this is clearly suggestive of the fact that Shri Sarup Singh was present in the premises on 20.03.1997 and at Point A of Ex.MW2/W4, there is signature of Shri Babu Ram Sharma also, which do not tally with the signatures on Ex.MW2/W3. Ex.MW2/W2 is the photocopy of the cheque book register. If signatures on these two documents do not tally, then the best person to explain of this incriminating circumstances as well as inconsistencies was Shri Babu Ram Sharma who has admittedly issued cheque book as well as received application for issuance of cheque book from Shri Sarup Singh on 20.03.1997. Management has not given any explanation as to why Shri Babu Ram Sharma was not examined.

19. There is another aspect of the matter which cannot be ignored. If the workman herein has impersonated as Shri Sarup Singh, this fact could have been clearly known to the other officials of the bank inasmuch as the workman had admittedly been working in the said branch for the last many years. Shri Vinod Kumar Mehra has further clarified in his statement that Ex.MW1/3 is the photocopy of the of same cheques which were presented before him and at the time of making payment, bank officials/teller obtains signatures of the person to whom the payment is being made. Had the workman received the payment, as is the case of the management herein, then this fact would have been known to the said teller who has made the payment. It is not the case of the management that the teller was not knowing the workman herein, who is admittedly an official of the bank.

20. There is force in the contention of the workman that the original cheque book issue register should have been produced by the management, both during the domestic enquiry as well as before this Court for the

purpose of proper appreciation as well as comparison of the signatures of the workman herein with the disputed signatures on the two cheques. Equally important was the fact that the management should have called Shri Swarup Singh during the enquiry and obtained his standard signatures so as to send them for comparison to the Handwriting Expert. It is not out of place to mention here that the Handwriting Expert, Shri M.R. Prabhu who had also examined these documents during the domestic enquiry had not primarily implicated the workman herein. Since no explanation was offered by the bank for non-production of the said register, as such this Tribunal is going to draw adverse inference against the bank.

21. Lastly, Statement of Shri Ajay Kumar, Manager, MW1 is not of any evidentiary value inasmuch as this witness was not posted at Chandni Chowk branch of the bank in the year 1997 when the above act of forgery/impersonation took place. He has also averred in the cross-examination that he was posted at Subroto Park branch of the bank in 1997. Moreover, he has not uttered even a word against the workman herein or tried to explain anything regarding the circumstances under which the above acts of fake/forged signatures took place.

22. So far as the statement of the Handwriting Expert, Pt. Ashok Kashyap and his report Ex.,MW3/1 is concerned, opinion of a handwriting expert, as is admitted position in law, cannot be blindly accepted. He has admitted in his cross-examination on 23.07.2011 that there are substantial differences in signatures Q1 to Q8. Though this witness has appeared in other such like cases, yet evidentiary value of the handwriting expert is to be tested on the basis of the report submitted by such an expert and it depends upon the reasons as well as the explanation furnished in the said report regarding conclusion drawn by such expert so as to make it relevant under the law.

23. As discussed above, during the domestic enquiry also, task of examination of these documents was entrusted to Shri M.R. Prabhu and the said witness has not directly implicated the workman herein so far as signatures on the two disputed cheques are concerned.

24. I have gone through the ratio of law in Murali Lal vs. State of MP [AIR (1980) SCC 531] relied upon by the workman regarding value of the opinion evidence of the Handwriting Expert, wherein it has been observed as under:

‘There is no rule of law, nor any rule of prudence which has crystallized into a rule of law, that opinion evidence of a handwriting expert must never be acted upon, unless substantially corroborated. But, having due regard to the imperfect nature of the science of identification of handwriting, the approach, as we indicated earlier, should be one of caution. Reasons for the opinion must be carefully probed and examined. All other relevant evidence must be considered. In appropriate cases, corroboration

may be sought. In cases where the reasons for the opinion are convincing and there is no reliable evidence throwing a doubt, the uncorroborated testimony of an handwriting expert may be accepted. There cannot be any inflexible rule on a matter which, in the ultimate analysis, is no more than a question of testimonial weight.

25. Similarly in the case of *Shashi Kumar vs. Subroto Kumar* [AIR (1964) SCC 529], Constitution Bench of the Hon'ble Apex Court, while discussing evidential value of handwriting expert under Section 45 of the Evidence Act, held as under:

'The expert's evidence as to handwriting is opinion-evidence and it can rarely, if ever, take the place of substantive evidence. Before acting on such evidence it is usual to see if it is corroborated either by clear direct evidence or by circumstantial evidence.'

26. Thus, it is clear from the ratio of judgement discussed above that opinion of handwriting expert is to be tested by the acceptability of the reasons given by him. Expert deposes, not decides. Science of identification of handwriting expert being imperfect in nature, the approach of the official charged with the duty of taking a decision should be one of caution, i.e. reasons for the opinion must be carefully probed and examined. There is always a tendency on the part of the Handwriting Expert having a soft corner for the party seeking his opinion and it is very true so far as Pt. Kashyap MW3 is concerned, since State Bank of India is his permanent client. Moreover, this Court cannot ignore the fact that on an earlier occasion during domestic enquiry, Shri M.R. Prabhu, the Handwriting Expert has not given opinion on the same lines as furnished by Pt. Kashyap. Therefore, his evidence requires more scrutiny. The evidence of handwriting expert, at the most, is corroborative in nature so far as the present case is concerned, and there is no substantive evidence on record to draw a conclusion that the workman herein has procured the cheque book fraudulently and thereafter presented the cheques Ex.MW3/5 and Ex.MW3/6 for payment at Chandni Chowk branch of the bank.

27. Net result of the above discussion is that charge No.1 and 2 leveled against the workman in the charge sheet Ex.WW1/4 regarding forging of signatures of the drawer on cheque No.175903 and 175904 for Rs.9500.00 and Rs.7500 Ex.MW3/5 and Ex.MW3/6 respectively by the workman herein are concerned, same

stands not been proved by the management. So far as question of passing of the above two cheques for payment is concerned, simply because the workman herein, in a routine manner, has posted the above cheques, would not mean that he had forged or fabricated the signatures on the above two cheques in any manner.

28. So far as charge No.5 regarding report of the handwriting expert and signatures on the cheque book requisition letter is concerned, as discussed above, report of the handwriting expert regarding this cannot be blindly accepted in view of the fact that MW2, Shri Vinod Kumar Mehra has specifically stated in his statement that on the said date that Shri Swarup Singh was present in the premises of the bank on 20.03.1997 and there is also signatures of Shri Babu Ram Sharma on Ex.MW2/W4. Non examination of Shri Babu Ram Sharma regarding payment and inconsistency of signatures etc. has dealt a crippling blow to the case of the management as he was the best witness to explain as to who had received payment of the above cheques. As already discussed, in case payment on the basis of the above cheques was received by the workman herein, this fact would have easily come to the notice of Shri Babu Ram Sharma, another official of the bank, as well as other senior officials present in the branch on that day during official working hours.

29. So far as charge No.6 is concerned regarding misconduct on previous two occasions on 07.06.1990 and 11.07.19954 for committing serious irregularities is concerned, the Enquiry Officer has not implicated the workman herein in any manner. Moreover, workman herein remained in the bank even thereafter and there is nothing on record to suggest that his conduct was not up to the mark. The learned authorized representative has also not pressed this issue during the course of arguments.

30. As a sequel to my above discussion, it is held that allegations of misconduct contained in charge sheet WW1/4 stands not proved against the workman herein. Resultantly, order of dismissal of the workman with immediate effect is held to be illegal and not justified as per law. As a necessary corollary, the workman herein, Shri Vinod Dutta, is entitled to grant of full back wages with all consequential benefits.

A.C. DOGRA, Presiding Officer

Dated : January 25, 2016